

MONTANA LEGISLATIVE HISTORY

Chapter 187 19 77

Bill H _____ S 29

Original bill & history X c

H. Committee on Public Health, Welfare & Safety S. Committee on Public Health, Welfare & Safety

Hearing Date(s) 2/8 X c Safety Hearing Date(s) 1/11 X c Safety

EXE ACTION 2/15 X c

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Date Out

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1 SENATE BILL NO. 29
 2 INTRODUCED BY BLAYLOCK
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 CLARIFY THE LAWS RELATING TO HEALTH AND SAFETY; AMENDING
 6 SECTIONS 27-706, 27-707, 27-722, 27-805, 50-480.7, 54-301,
 7 54-319, 69-1401, 69-1504, 69-1508, 69-1509, 69-1802,
 8 69-1808, 69-1923, 69-1925, 69-2111, 69-2701, 69-2702,
 9 69-4428.1, 69-4504, 69-4508, 69-5201, 69-5207, 69-5502,
 10 69-6701, 69-6704, 69-7102, 69-7103, 69-7105, 69-7107,
 11 69-7108, 69-7110, 82-1201, 82-1202, 82-1215, 82-1226,
 12 82-1229, AND 94-5-615, R.C.M. 1947; AND REPEALING SECTIONS
 13 41-2101 THROUGH 41-2108, 69-1924, AND 82-1232, R.C.M. 1947."
 14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 Section 1. Section 27-706, R.C.M. 1947, is amended to
 17 read as follows:
 18 "27-706. Detention or embargo of adulterated or
 19 misbranded articles -- condemnation proceedings -- immediate
 20 abatement of nuisances. ~~(a) (1) whenever a duly authorized~~ If
 21 an agent of the department finds or has probable cause to
 22 believe that any food, drug, device, or cosmetic is
 23 adulterated, or so misbranded as to be dangerous or
 24 fraudulent within the meaning of this act, he shall affix to
 25 ~~such~~ the article a tag or other appropriate marking, giving

1 notice that ~~such~~ the article is, or is suspected of being,
 2 adulterated or misbranded and has been detained or embargoed
 3 and warning all persons not to remove or dispose of ~~such~~ the
 4 article by sale or otherwise until permission for removal or
 5 disposal is given by ~~such~~ the agent or the court. It ~~shall~~
 6 ~~be is~~ unlawful for ~~any~~ a person to remove or dispose of ~~such~~
 7 a detained or embargoed article by sale or otherwise without
 8 ~~such~~ permission.

9 ~~(b) (2) when~~ If an article detained or embargoed under
 10 subsection ~~(a) (1) has been~~ is found by ~~such~~ the agent to be
 11 adulterated or misbranded, he shall petition the justice of
 12 peace, police city judge, or district court in whose
 13 jurisdiction the article is detained or embargoed for a
 14 ~~libel~~ an order for condemnation of ~~such~~ the article. ~~when~~
 15 ~~such~~ If the agent ~~has found~~ finds that an article so
 16 detained or embargoed is not adulterated or misbranded, he
 17 shall remove the tag or other marking.

18 ~~(c) (3)~~ If the court finds that a detained or embargoed
 19 article is adulterated or misbranded, ~~such~~ the article
 20 shall, after entry of the decree, be destroyed at the
 21 expense of the claimant thereof, under the supervision of
 22 ~~such~~ the agent, and all court costs and fees and storage and
 23 other proper expenses shall be taxed against the claimant of
 24 ~~such~~ the article or his agent, ~~provided, that when~~ If the
 25 adulteration or misbranding can be corrected by proper

INTRODUCED BILL

1 labeling or processing of the article, the court, after
 2 entry of the decree and after ~~such the~~ costs, fees, and
 3 expenses have been paid and a good and sufficient bond,
 4 conditioned that ~~such the~~ article ~~shall will~~ be so labeled
 5 or processed, has been executed, may by order direct that
 6 ~~such the~~ article be delivered to the claimant thereof for
 7 ~~such the~~ labeling or processing under the supervision of an
 8 agent of the department. The expense of ~~such the~~ supervision
 9 shall be paid by claimant. ~~Such The article~~ shall be
 10 returned to the claimant ~~of the article~~ on the
 11 representation to the court by the department that the
 12 article is no longer in violation of this act, and that the
 13 expenses of ~~such the~~ supervision have been paid.

14 ~~(4)(4)~~ Whenever the department or any of its
 15 authorized agents ~~shall~~ find in any room, building, vehicle
 16 of transportation, or other structure, any meat, sea food,
 17 poultry, vegetable, fruit, or other perishable ~~articles~~
 18 ~~article~~ which ~~are~~ is unsound, or ~~contain~~ contains any
 19 filthy, decomposed, or putrid substance, or that may be
 20 poisonous or deleterious to health or otherwise unsafe, the
 21 ~~same article~~ being hereby declared to be a nuisance, the
 22 department or its authorized agent, shall ~~forthwith~~
 23 immediately condemn or destroy the ~~same article~~ or in any
 24 other manner render the ~~same~~ article unsalable as human
 25 food."

1 Section 2. Section 27-707, R.C.M. 1947, is amended to
 2 read as follows:

3 "27-707. Proceedings to be instituted and prosecuted
 4 without delay — defendant's right to be heard by
 5 department. ~~It shall be the duty of each~~ Each state attorney
 6 or county attorney, to whom the department reports ~~any a~~
 7 violation of this act, ~~to~~ shall cause appropriate
 8 proceedings to be instituted in the proper courts without
 9 delay and to be prosecuted in the manner required by law.
 10 Before ~~any a~~ violation of this act is reported to ~~any such a~~
 11 state or county attorney for the institution of a criminal
 12 proceeding, the person against whom ~~such the~~ proceeding is
 13 contemplated shall be given appropriate notice and an
 14 opportunity to present his views before the department or
 15 its designated agent, either orally or in writing, and
 16 either in person or by attorney, with regard to ~~such the~~
 17 contemplated proceeding."

18 Section 3. Section 27-722, R.C.M. 1947, is amended to
 19 read as follows:

20 "~~27-722. Department's access to buildings and~~
 21 ~~provides examination of samples~~ inspections and taking of
 22 samples authorized. (1) The department or its authorized
 23 agents ~~shall~~ have free access at all reasonable hours to any
 24 factory, warehouse, or establishment in which foods, drugs,
 25 devices, or cosmetics are manufactured, processed, packed,

1 ~~or~~ held for introduction into commerce, or to enter any
2 vehicle being used to transport or hold ~~such~~ the foods,
3 drugs, devices, ~~or~~ cosmetics in commerce, for the purpose:

4 (a) of inspecting ~~such~~ the factory, warehouse,
5 establishment, or vehicle to determine if any of the
6 provisions of this act are being violated; and

7 (b) ~~to secure~~ of securing samples or specimens of any
8 food, drug, device, or cosmetic after paying or offering to
9 pay for ~~such~~ the sample.

10 ~~(2) It shall be the duty of the~~ The department ~~to~~
11 ~~shall~~ make or cause to be made examinations of samples
12 secured under the provisions of this section to determine
13 whether or not any provision of this act is being violated."

14 Section 4. Section 27-805, R.C.M. 1947, is amended to
15 read as follows:

16 "27-805. Penalties for violations. ~~Any~~ A person who
17 violates ~~any of~~ the provisions of ~~the~~ this act or the
18 orders, or rules ~~or regulations~~ promulgated by the
19 department under authority ~~thereof~~, of it shall, upon
20 conviction, ~~thereof be subjected to fine~~ be fined for each ~~and~~
21 ~~every~~ offense, ~~in a sum not exceeding one hundred dollars no~~
22 ~~more than \$100~~ or ~~to imprisonment be imprisoned for any~~
23 term not to exceed ~~thirty~~ (30) days."

24 Section 5. Section 50-480.7, R.C.M. 1947, is amended
25 to read as follows:

1 "50-480.7. Order — no violation — abatement. An
2 operator notified of an order made under ~~section 50-480.2~~
3 50-480.3 may apply to the division for a hearing or revision
4 of the order. If the division finds that there was no
5 violation, it shall make an order rescinding the order under
6 review. If the division finds that there was a violation,
7 but the violation has since been abated, it shall make an
8 order rescinding the order under review. If the division
9 finds that the violation was not totally abated, it shall
10 make an order consistent with its findings."

11 Section 6. Section 54-301, R.C.M. 1947, is amended to
12 read as follows:

13 "54-301. Definitions. As used in this act the
14 following definitions apply:

15 (1) "Administer" means the direct application of a
16 dangerous drug, whether by injection, inhalation, ingestion,
17 or any other means, to the body of a patient or research
18 subject by:

19 (a) a practitioner (or by his authorized agent); or
20 (b) the patient or research subject at the direction
21 and in the presence of the practitioner.

22 (2) "Agent" means an authorized person who acts on
23 behalf of or at the direction of a manufacturer,
24 distributor, or dispenser. It does not include a common or
25 contract carrier, public warehouseman, or employee of the

1 carrier or warehouseman.

2 (3) "Board" means the board of pharmacists, provided
3 for in ~~section~~ 82A-1602.21.

4 (4) "Bureau" means the bureau of narcotics and
5 dangerous drugs, United States department of justice, or its
6 successor agency.

7 (5) "Dangerous drug" means a drug, substance, or
8 immediate precursor in Schedules I through V hereinafter set
9 forth.

10 (6) "Counterfeit substance" means a dangerous drug
11 which, or the container or labeling of which, without
12 authorization, bears the trademark, trade name, or other
13 identifying mark, imprint, number, ~~of~~ or device, or any
14 likeness thereof, of a manufacturer, distributor, or
15 dispenser other than the person who in fact manufactured,
16 distributed, or dispensed the drug.

17 (7) "Deliver" or "delivery" means the actual,
18 constructive, or attempted transfer from one person to
19 another of a dangerous drug, whether or not there is an
20 agency relationship.

21 (8) "Department" means the department of professional
22 and occupational licensing, provided for in Title 82A,
23 chapter 16.

24 (9) "Dispense" means to deliver a dangerous drug to an
25 ultimate user or research subject by or pursuant to the

1 lawful order of a practitioner, including the prescribing,
2 administering, packaging, labeling, or compounding necessary
3 to prepare the drug for that delivery.

4 (10) "Dispenser" means a practitioner who dispenses.

5 (11) "Distribute" means to deliver other than by
6 administering or dispensing a dangerous drug.

7 (12) "Distributor" means a person who distributes.

8 (13) "Drug" means:

9 (a) ~~substances~~ a substance recognized as ~~drugs~~ a drug
10 in the official United States pharmacopoeia, official
11 homeopathic pharmacopoeia of the United States, or official
12 national formulary, or any supplement to any of them;

13 (b) ~~substances~~ a substance intended for use in the
14 diagnosis, cure, mitigation, treatment, or prevention of
15 disease in man or animals;

16 (c) ~~substances~~ a substance (other than food) intended
17 to affect the structure or any function of the body of man
18 or animals; and

19 (d) ~~substances~~ a substance intended for use as a
20 component of any article specified in ~~clause~~ (a), (b), or
21 (c) of this subsection. It does not include ~~devices~~ a device
22 or ~~their~~ its components, parts, or accessories.

23 (14) "Immediate precursor" means a substance which the
24 board of pharmacists ~~has found to be~~ finds and by rule
25 designates as being the principal compound commonly used or

1 produced primarily for use, and which is an immediate
2 chemical intermediary used or likely to be used in the
3 manufacture of a dangerous drug, the control of which is
4 necessary to prevent, curtail, or limit manufacture.

5 (15) "Manufacture" means the production, preparation,
6 propagation, compounding, conversion, or processing of a
7 dangerous drug, either directly or indirectly by extraction
8 from substances of natural origin, ~~or~~ independently by means
9 of chemical synthesis, or by a combination of extraction and
10 chemical synthesis, and includes any packaging or
11 repackaging of the drug or labeling or relabeling of its
12 container, ~~except that this~~ The term does not include the
13 preparation or compounding of a dangerous drug by an
14 individual for his own use or the preparation, compounding,
15 packaging, or labeling of a dangerous drug:

16 (a) by a practitioner as an incident to his
17 administering or dispensing of a dangerous drug in the
18 course of his professional practice; or

19 (b) by a practitioner or ~~by~~ his authorized agent
20 under his supervision, for the purpose of, or as an incident
21 to, research, teaching, or chemical analysis and not for
22 sale.

23 (16) "Marijuana (marihuana)" means all plant material
24 from the genus cannabis containing tetrahydrocannabinol
25 (THC) or seeds of the genus capable of germination.

1 (17) "Narcotic drug" means any of the following,
2 whether produced directly or indirectly by extraction from
3 substances of vegetable origin, ~~or~~ independently by means of
4 chemical synthesis, or by a combination of extraction and
5 chemical synthesis:

6 (a) opium and opiate, and any salt, compound,
7 derivative, or preparation of opium or opiate;

8 (b) any salt, compound, isomer, derivative, or
9 preparation thereof which is chemically equivalent or
10 identical with any of the drugs referred to in ~~class (a)~~
11 17(a) of this section, but not including the isoquinoline
12 alkaloids, of opium;

13 (c) opium poppy and poppy straw; or

14 (d) coca leaves and any salt, compound, derivative, or
15 preparation of coca leaves, and any salt, compound, isomer,
16 derivative, or preparation thereof which is chemically
17 equivalent or identical with any of these drugs, but not
18 including decocainized coca leaves or extractions of coca
19 leaves which do not contain cocaine or ecgonine.

20 (18) "Opiate" means any drug having an
21 addiction-forming or addiction-sustaining liability similar
22 to morphine or being capable of conversion into a drug
23 having addiction-forming or addiction-sustaining liability.
24 It does not include, unless specifically designated as a
25 dangerous drug under ~~section 54-302 of this act~~, the

1 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
2 salts (dextromethorphan). It does include its racemic and
3 levorotatory forms.

4 (19) "Opium poppy" means the plant of the species
5 *papaver somniferum* L., except its seeds.

6 (20) "Person" means an individual, corporation,
7 government or governmental subdivision or agency, business
8 trust, estate, trust, partnership, ~~or~~ association, or any
9 other legal entity.

10 (21) "Poppy straw" means all parts, except the seeds,
11 of the opium poppy, after mowing.

12 (22) "Practitioner" means:

13 (a) a physician, dentist, veterinarian, scientific
14 investigator, or other person licensed, registered, or
15 otherwise permitted to distribute, dispense, or conduct
16 research with respect to or to administer a dangerous drug
17 in the course of professional practice or research in this
18 state; and

19 (b) a pharmacy or other institution licensed,
20 registered, or otherwise permitted to distribute, dispense,
21 or conduct research with respect to or to administer a
22 dangerous drug in the course of professional practice or
23 research in this state.

24 (23) "Production" includes the manufacture, planting,
25 cultivation, growing, or harvesting of a substance or drug

1 regulated under the provisions of this act.

2 (24) "State," when applied to a part of the United
3 States, includes any state, district, commonwealth,
4 territory, insular possession thereof, and any area subject
5 to the legal authority of the United States of America.

6 (25) "Ultimate user" means a person who lawfully
7 possesses a dangerous drug for his own use or for the use of
8 a member of his household or for administering to an animal
9 owned by him or by a member of his household.

10 (26) The term "prescription" ~~shall be~~ is given the
11 meaning it has in ~~section 66-1502(13), R.C.M., 1947.~~

12 Section 7. Section 54-319, R.C.M. 1947, is amended to
13 read as follows:

14 "54-319. Procedure for denial, suspension, revocation,
15 or refusal to renew registration. (1) Before denying,
16 suspending, or revoking a registration, or refusing a
17 renewal of registration, the board shall ~~cause to be served~~
18 serve upon the applicant or registrant an order to show
19 cause why registration should not be denied, revoked, or
20 suspended, or why the renewal should not be refused. The
21 order to show cause shall contain a statement of the basis
22 therefor and shall require the applicant or registrant to
23 appear before the board at a time and place not less than
24 ~~thirty~~ (30) days after the date of service of the order, but
25 in the case of a denial ~~or~~ of renewal of registration, the

1 show cause order shall be served not later than ~~thirty~~ (30)
 2 days before the expiration of the registration. These
 3 proceedings shall be conducted without regard to any
 4 criminal prosecution or other proceeding. Proceedings to
 5 refuse renewal of registration ~~shall do~~ not abate the
 6 existing registration, which ~~shall remain~~ remains in effect
 7 pending the outcome of the administrative hearing.

8 (2) The board may suspend, without an order to show
 9 cause, any registration simultaneously with the institution
 10 of proceedings under ~~section 54-347~~ 54-318 or ~~where~~ whenever
 11 renewal of registration is refused, if it finds that there
 12 is an imminent danger to the public health or safety which
 13 warrants such action. The suspension ~~shall continue~~
 14 continues in effect until the conclusion of the proceedings,
 15 including judicial review thereof, unless sooner withdrawn
 16 by the board or dissolved by a court of competent
 17 jurisdiction."

18 Section 8. Section 69-1401, R.C.M. 1947, is amended to
 19 read as follows:

20 "69-1401. Construction of scaffolds. All scaffolds
 21 erected in this state for use in the erection, repair,
 22 alteration, or removal of buildings shall be well and safely
 23 supported, ~~and of~~ and sufficient width, and properly secured, so
 24 as to ensure the safety of persons working ~~thereon on them~~
 25 or passing ~~thereunder, under them~~ or by ~~the same, them~~ and

1 to prevent ~~the them from~~ falling ~~thereof, or of to prevent~~
 2 any material that may be used, placed, or deposited ~~thereon~~
 3 on them from falling."

4 Section 9. Section 69-1504, R.C.M. 1947, is amended to
 5 read as follows:

6 "69-1504. Inspection of boilers — further
 7 requirements in making inspection. (1) The inspector must
 8 ~~also~~ satisfy himself that;

9 (a) the safety valves are of suitable relieving
 10 capacity ratings, sufficient in number and area, and
 11 properly arranged, and ~~that the safety valves~~ are properly
 12 adjusted so as not to allow ~~as a~~ greater pressure in ~~the~~
 13 ~~boilers~~ a boiler than the amount prescribed by the
 14 inspection certificate;

15 (b) ~~that~~ there are a sufficient number of gauge cocks
 16 properly inserted to indicate the amount of water, and
 17 suitable gauges that will correctly record the pressure of
 18 steam; and

19 (c) adequate and certain provisions for an ample
 20 supply of water to feed the ~~boilers~~ boiler at all times, and
 21 ~~that~~ suitable means for blowing out are provided, so as to
 22 thoroughly remove mud and sediment from all parts of the
 23 ~~boilers~~ boiler when ~~they are~~ it is under pressure of steam,

24 (2) ~~and any~~ a renter, user, or owner of a boiler, or
 25 ~~any a person or persons~~ who ~~tamper~~ tampers with the safety

1 valve to allow the boiler to carry greater pressure than is
2 allowed by the inspection certificate, ~~shall be deemed is~~
3 guilty of a misdemeanor.

4 ~~(2)(3)~~ Where if a boiler is constructed with lap
5 horizontal seams on the boiler, dome, or drum, a factor of
6 ~~four and one-half~~ 4 1/2 shall be used in determining the
7 safe working pressure allowed on ~~each~~ the boiler. ~~But where~~
8 ~~the boilers are~~ if a boiler is constructed with ~~butt strap~~
9 ~~butt strap~~ horizontal seams, a factor of four may be used in
10 determining ~~each~~ the safe working pressure. If a boiler
11 rests on a side wall on lugs, or is hung by I-beams, or is
12 in any way set up so that the weight of the boiler is
13 pulling against the horizontal seam of rivets, a factor of
14 five must be used ~~to determine~~ in determining the safe
15 working pressure ~~allowed on boiler~~. ~~Where~~ if the horizontal
16 lap seams of a boiler are exposed to the fire, a factor of
17 five must be used ~~to determine~~ in determining the safe
18 working pressure ~~to be allowed on such boiler~~. On new stay
19 bolts, ~~if new, seven thousand five hundred~~ 7,500 pounds
20 pressure per square inch ~~shall be is~~ allowed. If ~~each~~ the
21 stay bolts are corroded or defective, the inspector must
22 determine the pressure to be allowed on ~~same~~ them. On braces
23 made of solid material, ~~eight thousand~~ 8,000 pounds pressure
24 per square inch ~~shall be is~~ allowed. On welded braces or
25 braces with only one ~~crew-foot~~ crowfoot, ~~six thousand~~ 6,000

1 pounds pressure per square inch ~~shall be is~~ allowed. No cast
2 iron ~~shall~~ may be used in the construction or reinforcements
3 of ~~any~~ a boiler ~~where~~ if the pressure allowed on ~~said~~ the
4 boiler is more than ~~one hundred~~ 100 pounds per square inch."

5 Section 10. Section 69-1508, R.C.M. 1947, is amended
6 to read as follows:

7 "69-1508. Licenses required — penalty for operating
8 without license. No person ~~shall~~ may be granted a license to
9 operate steam or water boilers and steam machinery under the
10 provisions of this article, who has not met the
11 qualifications for licensing, ~~and been~~ found to be competent
12 by examination to perform the duties of an engineer, and
13 received a license so to act. ~~Any~~ A person who operates ~~any~~
14 a boiler or steam engine without first obtaining a license
15 is guilty of a misdemeanor and, upon conviction, shall be
16 ~~penished by a fine of not~~ fined no less than ~~fifty dollars~~
17 \$50 ~~or~~ or more than ~~one hundred dollars,~~ \$100 or by
18 ~~imprisonment~~ be imprisoned in the county jail for ~~not more~~
19 ~~than sixty~~ any term not to exceed 60 days, or by both ~~such~~
20 ~~fine and imprisonment.~~"

21 Section 11. Section 69-1509, R.C.M. 1947, is amended
22 to read as follows:

23 "69-1509. Classification and licensing of engineers.
24 (1) Engineers entrusted with the operation, care, and
25 management of steam or water boilers and steam machinery, as

1 specified in the preceding section, ~~must be~~ are divided into
2 four classes, namely: first-class engineers, second-class
3 engineers, third-class engineers, and low-pressure
4 engineers.

5 (2) Licenses for the operation of steam or water
6 boilers and steam machinery ~~shall be~~ are divided into four
7 classifications in accordance with the following schedule:

8 (a) First-class engineers ~~shall be~~ are licensed to
9 operate all classes, pressures, and temperatures of steam
10 and water boilers and ~~steam-driven~~ steam-driven machinery
11 with the exception of traction and hoisting engines.

12 (b) Second-class engineers ~~shall be~~ are licensed to
13 operate steam boilers operating not in excess of ~~two hundred~~
14 ~~fifty~~ (250) pounds per square inch gauge saturated steam
15 pressure, ~~or~~ water boilers operating not in excess of ~~three~~
16 ~~hundred seventy five~~ (375) pounds per square inch gauge
17 pressure and ~~four hundred fifty degrees Fahrenheit~~ (450° F)
18 450 degrees F temperature, and ~~steam-driven~~ steam-driven
19 machinery not to exceed ~~one hundred~~ (100) horsepower per
20 unit, with the exception of traction and hoisting engines.

21 (c) Third-class engineers ~~shall be~~ are licensed to
22 operate steam boilers operating not in excess of ~~one hundred~~
23 ~~(100)~~ pounds per square inch gauge saturated steam pressure
24 ~~or and~~ water boilers operating not in excess of ~~one hundred~~
25 ~~sixty~~ (160) pounds per square inch gauge pressure and ~~three~~

1 ~~hundred fifty degrees Fahrenheit~~ (250° F) 350 degrees F
2 temperature.

3 (d) Low-pressure engineers ~~shall be~~ are licensed to
4 operate steam boilers operating not in excess of ~~fifteen~~
5 ~~(15)~~ pounds per square inch gauge pressure ~~or and~~ water
6 boilers operating not in excess of ~~fifty~~ (50) pounds per
7 square inch gauge pressure and ~~two hundred fifty degrees~~
8 ~~Fahrenheit~~ (250° F) 250 degrees F temperature.

9 (3) Each applicant for an engineer's license ~~shall~~
10 must be physically and mentally capable of performing the
11 required duties and meet the following minimum requirements
12 for the class of engineer's license for which application is
13 being made: ~~Each applicant for any classification must be~~
14 ~~physically and mentally capable of performing the required~~
15 ~~duties for the class of engineer's license for which~~
16 ~~application is being made.~~

17 (a) ~~Applicants~~ An applicant for a low-pressure
18 engineer's license ~~shall~~ must have ~~no less than three at~~
19 least (3) months' full-time experience in the actual
20 operation of a boiler in this classification, and
21 successfully pass a written examination prescribed by the
22 division, and ~~has~~ have passed his ~~eighteenth~~ (18th)
23 birthday, and ~~is~~ be found to be competent to operate a
24 boiler ~~or boilers~~ in this classification ~~shall be granted a~~
25 ~~low-pressure engineer's license.~~

(b) ~~Applicants~~ An applicant for a third-class engineer's license ~~shall must~~ have ~~no less than six at least~~ ~~{6}~~ months' full-time experience in the ~~actual~~ operation of a boiler in this classification, under an engineer holding a valid third-class or higher license, ~~and~~ successfully pass a written examination prescribed by the division, ~~and has have~~ passed his ~~eighteenth~~ {18th} birthday, and ~~is be~~ found to be competent to operate a boiler ~~or boilers~~ in this classification ~~shall be granted a third-class engineer's license.~~

(c) ~~Applicants~~ An applicant for a second-class engineer's license ~~shall have must~~:

~~{1} {i} No less than two have at least {2} years'~~ full-time experience in the ~~actual~~ operation of a boiler and ~~steam-driven steam-driven~~ machinery in this classification, under an engineer holding a valid second-class or first-class license, ~~and~~ successfully pass a written examination prescribed by the division, ~~and has have~~ passed his ~~eighteenth~~ {18th} birthday, and ~~is be~~ found to be competent to operate a boiler ~~or boilers~~ and ~~steam-driven steam-driven~~ machinery in this classification ~~shall be granted a second-class engineer's license; or~~

~~{2} {iii} Hold hold~~ a valid third-class engineer's license and have ~~no less than one at least~~ {1} year's full-time experience in the ~~actual~~ operation of a boiler and

~~steam-driven steam-driven~~ machinery in this classification, under an engineer holding a valid second-class or first-class license, ~~and~~ successfully pass a written examination prescribed by the division, ~~and has have~~ passed his ~~eighteenth~~ {18th} birthday, and ~~is be~~ found to be competent to operate a boiler ~~or boilers~~ and ~~steam-driven steam-driven~~ machinery in this classification ~~shall be granted a second-class engineer's license.~~

(d) ~~Applicants~~ An applicant for a first-class engineer's license ~~shall have must~~:

~~{1} {i} No less than three have at least {3} years'~~ full-time experience in the ~~actual~~ operation of a boiler and ~~steam-driven steam-driven~~ machinery in this classification, under an engineer holding a valid first-class license, ~~and~~ successfully pass a written examination prescribed by the division, ~~and has have~~ passed his ~~eighteenth~~ {18th} birthday, and ~~is be~~ found to be competent to operate a boiler ~~or boilers~~ and ~~steam-driven steam-driven~~ machinery in this classification, ~~shall be granted a first-class engineer's license; or~~

~~{2} {iii} Hold hold~~ a valid second-class engineer's license and have ~~no less than one at least~~ {1} year's full-time experience in the ~~actual~~ operation of a boiler and ~~steam-driven steam-driven~~ machinery in this classification, under an engineer holding a valid first-class license, ~~and~~

1 successfully pass a written examination prescribed by the
2 division, ~~and has~~ have passed his ~~eighteenth~~ 18th
3 birthday, and ~~is~~ be found to be competent to operate, a
4 boiler ~~or-boilers~~ and ~~steam-driven~~ steam-driven machinery in
5 this classification ~~shall be granted a first-class~~
6 ~~engineer's license~~; or

7 ~~(3)(iii)~~ Hold hold a valid third-class engineer's
8 license and have ~~no less than two~~ at least ~~(2)~~ year's
9 full-time experience in the ~~actual~~ operation of a boiler and
10 ~~steam-driven~~ steam-driven machinery in this classification,
11 under an engineer holding a valid first-class license, and
12 successfully passed a written examination prescribed by the
13 division, ~~and has~~ have passed his ~~eighteenth~~ 18th
14 birthday, and ~~is~~ be found to be competent to operate a
15 boiler ~~or-boilers~~ and ~~steam-driven~~ steam-driven machinery in
16 this classification ~~shall be granted a first-class~~
17 ~~engineer's license~~.

18 ~~(4)~~ (4) Allowable exceptions or variances to the
19 ~~foregoing~~ minimum requirements set out in subsection (3) of
20 this section are as follows:

21 ~~(4)(a)~~ (a) ~~Applicants~~ An applicant for an engineer's
22 license in any classification holding a valid license in
23 that classification from another state ~~with~~ having licensing
24 requirements equal to or exceeding the ~~foregoing~~ minimum
25 requirements ~~for the state of Montana and set out in~~

1 ~~subsection (3) of this section~~, successfully ~~pass~~ passing a
2 written examination prescribed by the division, and ~~is~~ found
3 to be competent to operate a boiler ~~or-boilers~~ and ~~steam~~
4 ~~driven~~ steam-driven machinery in that classification shall
5 be granted a license in that classification.

6 ~~(3)(b)~~ Operating experience in a classification
7 accumulated in the United States military services or the
8 merchant marine service satisfactory to the division,
9 ~~accumulated in United States military services or the~~
10 ~~merchant marine service~~ may be accepted in lieu of the
11 operating experience required for licensing of engineers in
12 each of the ~~foregoing~~ license classifications.

13 ~~(3)(c)~~ Applicants with An applicant having training in
14 the ~~actual~~ operation of steam or water boilers and steam
15 machinery who ~~have~~ has been certified as having
16 satisfactorily completed a prescribed training course from a
17 recognized vocational-technical training school or center or
18 other ~~division-approved~~ division-approved institution or
19 training program in the classification for which he is
20 applying may, at the discretion of the division, be credited
21 with a maximum of ~~six~~ (6) months' experience toward a first,
22 second, or third-class engineer's license.

23 ~~(4)(5)~~ None of the licenses named in subsections (1)
24 and (2) of this section ~~above named shall~~ entitle the ~~its~~
25 holder ~~thereof~~ to operate a traction engineer, ~~but all~~

~~persons a person~~ who ~~are is~~ entrusted with the care and management of traction engines, or boilers on wheels, ~~are is~~ required to pass an examination ~~as to their testing his~~ competency to operate ~~such that~~ class of machinery and to procure a traction license ~~to be known as a traction license~~. ~~Such a~~ traction license shall does not entitle the ~~its~~ holder ~~thereof~~ to operate any other class of steam machinery ~~specified in the preceding section~~. Applicants ~~an~~ applicant for a traction engineer's license shall must have ~~no less than six at least~~ (6) months' full-time experience in the operation of steam traction engines, and successfully pass a written examination prescribed by the division, and ~~has have~~ passed his ~~eighteenth~~ (18th) birthday, and ~~is be~~ found to be competent to operate a traction engine ~~shall be granted a traction engineer's license~~. The division, at its discretion, may waive the experience requirement for operators of traction engines which are maintained and operated as a hobby for the restoration and show purposes of antique equipment."

Section 12. Section 69-1802, R.C.M. 1947, is amended to read as follows:

"69-1802. Application of act — definitions. Sections 69-1801 through 69-1810, ~~R.C.M. 1947~~, apply to the following occupancies defined below:

(1) "Assembly occupancy" means the occupancy or use of

a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social, or recreational purposes, including among others;

(a) armories;

(b) assembly halls;

(c) auditoriums;

(d) bowling alleys;

(e) broadcasting studios;

(f) chapels;

(g) churches;

(h) club rooms;

(i) dance halls;

(j) exhibition rooms;

(k) gymnasiums;

(l) lecture halls;

(m) lodge rooms;

(n) motion picture theaters;

(o) museums;

(p) night clubs;

(q) opera houses;

(r) passenger stations;

(s) pool rooms;

(t) recreation areas;

(u) restaurants;

1 (v) skating rinks;

2 (w) television studios;

3 (x) theaters; and

4 (y) taverns.

5 (2) "Business occupancy" means the occupancy or use of
6 a building or structure or any portion thereof for the
7 transaction of business, or the rendering or receiving of
8 professional services, including among others:

9 (a) banks;

10 (b) barber shops;

11 (c) beauty parlors;

12 (d) office buildings;

13 (e) radio stations;

14 (f) telephone exchanges; and

15 (g) television stations.

16 (3) "Educational occupancy" means the occupancy or use
17 of a building or structure or any portion thereof by persons
18 assembled for the purpose of learning or ~~of~~ receiving
19 educational instruction, including among others:

20 (a) academies;

21 (b) colleges;

22 (c) libraries;

23 (d) schools; and

24 (e) universities.

25 (4) "Industrial occupancy" means the occupancy or use

1 of a building or structure or any portion thereof for
2 assembling, fabricating, finishing, manufacturing,
3 packaging, or processing operations, including among
4 others:

5 (a) assembly plants;

6 (b) creameries;

7 (c) electric substations;

8 (d) factories;

9 (e) ice plants;

10 (f) laboratories;

11 (g) laundries;

12 (h) manufacturing plants;

13 (i) mills;

14 (j) power plants;

15 (k) processing plants;

16 (l) pumping stations;

17 (m) repair garages;

18 (n) smoke houses; and

19 (o) ~~work-shops~~ workshops.

20 (5) "Institutional occupancy" means the occupancy or
21 use of a building or structure or any portion thereof by
22 persons harbored or detained to receive medical, charitable,
23 or other care or treatment, or by persons involuntarily
24 detained, including among others:

25 (a) asylums;

1 **(b)** homes for the aged;
 2 **(c)** hospitals;
 3 **(d)** houses of correction;
 4 **(e)** day care facilities;
 5 **(f)** infirmaries;
 6 **(g)** jails;
 7 **(h)** nurseries;
 8 **(i)** orphanages;
 9 **(j)** nursing homes;
 10 **(k)** penal institutions;
 11 **(l)** reformatories;
 12 **(m)** sanitariums;
 13 **(n)** long-term care facilities; and
 14 **(o)** boarding homes.
 15 **(6)** "Residential occupancy" means the occupancy or use
 16 of a building or structure or any portion thereof by persons
 17 for whom sleeping accommodations are provided, ~~but~~ and who
 18 are not harbored or detained to receive medical, charitable,
 19 or other care or treatment, or are not involuntarily
 20 detained, including among others, (but not including
 21 single-family private houses):
 22 **(a)** apartments;
 23 **(b)** ~~club houses~~ clubhouses;
 24 **(c)** convents;
 25 **(d)** dormitories;

1 **(e)** dwellings;
 2 **(f)** hotels;
 3 **(g)** motels;
 4 **(h)** multifamily houses; and
 5 **(i)** lodging houses,
 6 ~~but not including single family private houses."~~
 7 Section 13. Section 69-1808, R.C.M. 1947, is amended
 8 to read as follows:
 9 "69-1808. Inspection by fire chiefs, county ~~sheriff~~
 10 sheriffs, or deputy fire marshals -- review of plans by fire
 11 marshal -- permits -- notice of inadequate equipment --
 12 compliance -- enforcement. (1) Within an incorporated
 13 ~~municipalities~~ municipality, an educational or institutional
 14 occupancy, whether public or private, may not be constructed
 15 or have alterations made costing ~~fifteen hundred dollars~~
 16 ~~(\$1,500)~~ or more ~~unless until~~ sketches or architectural
 17 plans for the construction or alteration, whichever are
 18 available, are submitted ~~for the construction or alteration~~
 19 to the state fire marshal and approved by him.
 20 (2) Outside an incorporated ~~municipalities~~
 21 municipality, an assembly, educational, or institutional
 22 occupancy may not be constructed or have alterations made
 23 costing ~~fifteen hundred dollars~~ ~~(\$1,500)~~ or more ~~unless~~
 24 until a permit has been issued for the construction or
 25 alteration by the county commissioners. A fee of ~~ten dollars~~

1 ~~(\$10)~~ shall be paid to the county treasurer for each permit.
 2 A copy of ~~said the~~ permit shall be furnished to the county
 3 assessor. No permit shall may be issued until sketches or
 4 architectural plans for the construction or alteration,
 5 whichever are available, are submitted ~~for the alteration or~~
 6 ~~construction of the above occupancies~~ to the state fire
 7 marshal and approved by him. The fire marshal and county
 8 sheriffs are responsible for enforcing the provisions of
 9 this subsection.

10 (3) A building designed for human occupancy owned or
 11 controlled by the state may not be constructed ~~unless until~~
 12 plans for the construction have been submitted to the state
 13 fire marshal and approved by him.

14 (4) ~~It shall be the duty of the~~ The chief of the fire
 15 department of each municipality or district where a fire
 16 department is established and the county sheriff or deputy
 17 fire marshals where no fire department exists ~~at least once~~
 18 ~~each six (6) months to shall~~ enter into all buildings and
 19 upon all premises within ~~his~~ their jurisdiction at least
 20 once each 6 months for the purpose of ~~the examination of~~
 21 ~~such examining the~~ premises for violations of this act. ~~Such~~
 22 The inspection shall include but ~~shall is~~ not be limited to
 23 testing fire alarms, and fire extinguishers, examining fire
 24 hose, ~~and~~ attachments, and other fire apparatus, and
 25 examining fire escapes ~~provided for herein~~. Copies of ~~such~~

1 the inspection shall be filed in the office of the state
 2 fire marshal on forms to be provided by him.

3 (5) When ~~any~~ a building ~~shall be is~~ found which
 4 ~~required requires~~ the erection of fire escapes, and upon
 5 which fire escapes have not been erected according to the
 6 provisions of this act, or if fire hoses, fire
 7 extinguishers, fire alarms, or other fire apparatus is found
 8 to be lacking or defective or not in good working condition,
 9 the person making ~~such the~~ inspection or the state fire
 10 marshal shall serve a written notice upon the party ~~or~~
 11 ~~parties~~ whose duty it is to erect ~~such the~~ fire escapes, or
 12 maintain such fire apparatus. ~~Said The~~ notice shall specify
 13 the time within which ~~said the~~ fire escapes shall be
 14 erected, or ~~such the~~ defective conditions be remedied, ~~and~~
 15 ~~in no case shall which may not~~ be more than ~~ninety (90)~~
 16 ~~days, and said The~~ notice ~~shall be deemed to have been is~~
 17 served if delivered to the person to be notified, ~~or~~ if left
 18 with any adult person at the usual residence or place of
 19 business of the person to be notified, or if deposited in
 20 the post office, directed to the last known address of the
 21 person to be notified. ~~In case of whenever~~ buildings within
 22 ~~the term of this act, that~~ are managed and controlled by a
 23 board of trustees, board of commissioners, or other
 24 governing body, the notice is served if delivered to the
 25 president, secretary, or treasurer of the board of trustees.

1 ~~board of commissioners, or other governing body, to cause~~
 2 ~~the erection of fire escapes on said buildings, as may be~~
 3 ~~required, provided, that the~~ The occupant or lessee of any
 4 building who is required to erect fire escapes under the
 5 provisions of this act, ~~shall be~~ is entitled to reimburse
 6 himself for the cost and expense of erecting ~~said the~~ fire
 7 escapes out of the rent or lease money of ~~said the~~ premises,
 8 and ~~such the~~ reimbursement shall ~~not be construed to be~~ is
 9 ~~not~~ a breach of any existing lease, contract, or any
 10 covenant thereof ~~nor~~ or grounds for any action or damage
 11 ouster.

12 (6) The state fire marshal ~~shall have~~ has general
 13 charge and supervision of the enforcement ~~of the provisions~~
 14 of this act, and ~~such officers as above enumerated the~~
 15 ~~officers enumerated in subsection (4) of this section~~ shall
 16 act under the his general charge and supervision, ~~of the~~
 17 ~~state fire marshal. Said officer shall assist the state fire~~
 18 ~~marshal him~~ in giving effect to ~~the terms and provisions of~~
 19 this act, and ~~shall be~~ are subject to his direction and ~~to~~
 20 the rules adopted for the enforcement of this act."

21 Section 14. Section 69-1923, R.C.M. 1947, is amended
 22 to read as follows:

23 "69-1923. Storage of explosives in cities, etc. No
 24 person, company, or corporation shall may store, deposit, or
 25 keep within ~~one~~ 1 mile of the limits of ~~any~~ a city, town, or

1 village any powder, gunpowder, giant or Hercules powder, or
 2 other highly explosive substance, in ~~greater quantities than~~
 3 ~~one hundred excess of 100~~ pounds, or ~~more than one thousand~~
 4 1,000 giant caps, ~~at any one time,~~ nor shall ~~such~~ may
 5 explosives be stored, deposited, or kept in any quantities
 6 quantity whatever within ~~one~~ 1 mile of ~~such a~~ a city, town, or
 7 village, except in a magazine constructed as ~~hereinafter~~
 8 ~~described, provided for in 69-1907, provided, that this~~ This
 9 section ~~shall not be construed to~~ does not prevent ~~any a~~
 10 person, company, or corporation, operating a mine within ~~one~~
 11 1 mile of the limits of ~~such a~~ a city, town, or village, from
 12 storing powder for use in ~~such the~~ the mine in the manner
 13 prescribed in ~~sections 69-1922 and 69-1924,~~ 69-1907.
 14 ~~provided also, that this~~ This section shall does not prevent
 15 the keeping of a reasonable amount of gunpowder, not
 16 exceeding ~~fifty~~ 50 pounds, in a safe place for sale."

17 Section 15. Section 69-1925, R.C.M. 1947, is amended
 18 to read as follows:

19 "69-1925. ~~Magazines, etc.,~~ Transportation vehicle to
 20 bear warning signs. ~~Every storehouse or magazine constructed~~
 21 ~~as provided in the foregoing section, in which shall be~~
 22 ~~stored, deposited, or kept any powder, gunpowder, giant or~~
 23 ~~Hercules powder, giant caps, or other highly explosive~~
 24 ~~substance, shall at all times have posted above the entrance~~
 25 ~~thereof a signboard on which shall be painted in conspicuous~~

1 ~~letters not less than four inches in length the words~~
 2 ~~"explosives dangerous." Every dray, wagon, freight car, or~~
 3 ~~other~~ Each vehicle in which ~~shall be~~ explosives are
 4 transported, transferred, or delivered ~~any of the said~~
 5 ~~explosives,~~ shall bear on each side thereof a similar sign
 6 ~~with having the words "explosives dangerous" in~~ conspicuous
 7 letters not less than ~~two~~ 2 inches in length."

8 Section 16. Section 69-2111, R.C.M. 1947, is amended
 9 to read as follows:

10 "69-2111. Adoption of rules by department. (1) The
 11 department shall adopt by reference nationally recognized
 12 building codes in whole or in part, amend ~~and~~ or repeal
 13 rules relating to the construction of all buildings or
 14 classes of buildings or the installation of equipment in
 15 those buildings, and may by rule prescribe standards or
 16 requirements for materials to be used in buildings,
 17 including provisions dealing with safety, sanitation, and
 18 conservation of energy. The rules, when adopted as provided
 19 in this chapter, constitute the "state building code" and
 20 ~~shall be~~ are acceptable for the buildings to which ~~it is~~
 21 they are applicable.

22 (2) The department ~~may~~ hold hearings relating to the
 23 administration of this act in accordance with the Montana
 24 Administrative Procedure Act.

25 (3) Except as provided in subsection (4) of this

1 section, no rule, ~~and no~~ amendment, or repeal of the state
 2 building code ~~shall~~ may take effect until after a public
 3 hearing by the department.

4 (4) If a hearing has been held by the ~~department of~~
 5 ~~justice~~ state fire marshal with respect to ~~its~~ his duties
 6 contained in Title 82, chapter 12, ~~or by~~ the board of
 7 plumbers, the department of health and environmental
 8 sciences, ~~the~~ board of warm air heating, ventilation, and
 9 air conditioning, or ~~the~~ state electrical board, on a
 10 proposed rule relating to building and equipment standards
 11 in their respective fields, a public hearing by the
 12 department is not required. The proposed rule is effective
 13 upon approval of the department and filing with the
 14 secretary of state as a part of the state building code.

15 (5) If a rule relating to building or equipment
 16 standards is proposed by the ~~department of justice~~ state
 17 fire marshal with respect to ~~its~~ his duties contained in
 18 Title 82, chapter 12, ~~or by the~~ board of plumbers, ~~the~~
 19 department of health and environmental sciences, ~~the~~ board
 20 of warm air heating, ventilation, and air conditioning, or
 21 ~~the~~ state electrical board which conflicts with the state
 22 building code, the department after consultation with the
 23 state agencies affected, shall modify the proposed rule or
 24 the state building code to resolve the conflict ~~after~~
 25 ~~consultation with the state agencies affected."~~

1 Section 17. Section 69-2701, R.C.M. 1947, is amended
2 to read as follows:

3 "69-2701. Fireworks prohibited and defined for the
4 purposes of this act ~~chapter~~. ~~or (1)~~ It ~~shall be~~ is unlawful
5 to possess, sell, transport, or use any fireworks within the
6 state of Montana except as ~~hereinafter~~ provided in this
7 chapter.

8 ~~or (2)~~ The term "fireworks" ~~shall mean and include~~
9 means any combustible, or explosive composition, or any
10 substance, ~~or~~ combination of substances, or article prepared
11 for the purpose of producing a visible or audible effect by
12 combustion, explosion, deflagration, or detonation, and
13 ~~shall include~~ includes sky rockets, ~~Roman roman~~ candles,
14 Daygo daygo bombs, blank cartridges, toy cannons, toy canes,
15 or toy guns in which explosives other than toy paper caps
16 are used, the type of balloons which require fire underneath
17 to propel ~~the same then~~, firecrackers, torpedoes, sparklers
18 or other fireworks of like construction, and any fireworks
19 containing any explosive ~~or~~ or flammable compound, or any
20 tablets or other device containing any explosive substance.
21 ~~Nothing in this law shall be construed as applying This~~
22 chapter does not apply to toy paper caps containing ~~not more~~
23 less than ~~twenty-five hundredths (.25)~~ $1/4$ of a grain of
24 explosive composition per cap, and to the manufacture,
25 storage, sale, or use of signals necessary for the safe

1 operation of railroads or other classes of public or private
2 transportation, ~~not applying~~ to the military or ~~navy naval~~
3 forces of the United States or ~~of~~ this state, ~~or~~ to peace
4 officers, ~~not as prohibiting or to~~ the sale or use of blank
5 cartridges for ceremonial, ~~or~~ theatrical, or athletic
6 events.

7 ~~or (3)~~ It ~~shall be~~ is lawful for ~~any an~~ individual,
8 firm, partnership, corporation, or association to possess
9 for sale ~~within the state~~, sell or offer for sale ~~at~~
10 retail, or use, within the state of Montana, the permissible
11 fireworks ~~herein~~ enumerated in subsection (4) of this
12 section.

13 (4) Permissible fireworks, ~~shall include dangerous~~
14 ~~articles and, more specifically, shall~~ excluding sky
15 rockets, roman candles, daygo bombs, firecrackers, and
16 bottle rockets, include and be are limited to the following,
17 ~~but specifically excluding sky rockets, Roman candles and~~
18 ~~Daygo bombs, firecrackers and bottle rockets:~~

19 (1)(a) Helicopter helicopter type spinners, the total
20 pyrotechnic composition not to exceed ~~twenty (20)~~ grams each
21 in weight;

22 (2)(b) Cylindrical cylindrical fountains, the total
23 pyrotechnic composition not to exceed ~~twenty-five (25)~~ grams
24 each in weight. The and the inside tube diameter ~~shall~~ not
25 to exceed three-fourths (3/4) of an inch;

1 ~~(3)~~ (c) ~~Cone~~ cone fountains, ~~the~~ total pyrotechnic
2 composition not to exceed ~~fifty~~ (50) grams each in weight;

3 ~~(4)~~ (d) ~~Wheels~~ wheels, ~~the~~ total pyrotechnic
4 composition not to exceed ~~sixty~~ (60) grams in weight, for
5 each driver unit, (but there may be any number of drivers on
6 any one wheel.) ~~The~~ and the inside bore of driver tubes
7 shall not to be over one-half ~~(1/2)~~ of an inch;

8 ~~(5)~~ (e) ~~Illuminating~~ illuminating torches and colored
9 fire in any form, ~~the~~ total pyrotechnic composition not to
10 exceed ~~one hundred~~ (100) grams each in weight;

11 ~~(6)~~ (f) ~~Sparklers~~ sparklers and dipped sticks, ~~the~~
12 total pyrotechnic composition not to exceed ~~one hundred~~
13 (100) grams each in weight. ~~Pyrotechnic~~ (pyrotechnic
14 composition containing any chlorate ~~shall~~ not to exceed ~~five~~
15 ~~(5)~~ grams); and

16 ~~(7)~~ (g) ~~Whistles~~ whistles without report, ~~the~~ total
17 pyrotechnic composition not to exceed ~~forty~~ (40) grams each
18 in weight.

19 (5) It ~~shall be~~ is unlawful for ~~any~~ an individual
20 under the age of ~~eighteen~~ (18) to possess for sale, sell, or
21 offer for sale, within the state of Montana, permissive
22 fireworks ~~herein~~ enumerated in subsection (4) of this
23 section.

24 (6) It ~~shall be~~ is unlawful for ~~any~~ a wholesaler to
25 sell or offer for sale, within the state of Montana,

1 fireworks except as ~~herein defined~~ enumerated in subsection
2 (3) of this section. It ~~shall be~~ is lawful for ~~said~~ a
3 wholesaler, however, to transport ~~said~~ fireworks within ~~the~~
4 ~~state of Montana~~ for sale outside of the state of ~~Montana~~.

5 ~~(7)~~ No person, firm, or corporation ~~shall~~ may offer
6 fireworks of any kind ~~as defined herein~~ for sale at retail
7 before ~~the 24th day of June~~ 24 and after ~~the 5th day of July~~
8 5.

9 ~~(8)~~ It ~~shall be~~ is unlawful for ~~any~~ an individual,
10 firm, partnership, or corporation to discharge or cause to
11 be discharged any pyrotechnics ~~of any description whatever~~
12 within the exterior boundaries of ~~any~~ a state forest, ~~or~~
13 state park, or state recreation area."

14 Section 18. Section 69-2702, R.C.M. 1947, is amended
15 to read as follows:

16 "69-2702. Supervised public display of fireworks.
17 ~~Except as hereinafter provided, it shall be unlawful for any~~
18 ~~person, firm, partnership, association or corporation to~~
19 ~~possess, offer for sale, expose for sale, sell, or use or~~
20 ~~explode any fireworks; provided that the~~ The state fire
21 marshal and the governing body of ~~any~~ a city, town, ~~or~~
22 township or county ~~shall have power~~ may, under reasonable
23 rules ~~and regulations~~ adopted by ~~it then~~, to grant permits
24 for supervised public displays of fireworks to be held
25 ~~therein~~ by municipalities, fair associations, amusement

1 parks, and other organizations or groups of individuals.
 2 ~~Every such~~ Each display shall be handled by a competent
 3 operator, ~~to who must~~ be approved by the state fire marshal
 4 or ~~by~~ the governing body of the municipality in which the
 5 display is to be held, and shall be ~~of such a character, and~~
 6 ~~as~~ located, discharged, or fired as, in the opinion of the
 7 chief of the fire department or ~~such~~ other officer ~~as may be~~
 8 designated by the governing body of the municipality, after
 9 proper inspection, shall not ~~to~~ be hazardous to persons or
 10 ~~property or endanger any person or persons.~~ Application for
 11 permits shall be made in writing at least ~~fifteen~~ (15) days
 12 ~~in advance of~~ prior to the date of the display. After ~~such~~
 13 ~~the privilege shall have~~ has been granted, sales,
 14 possession, use, and distribution of fireworks for ~~such the~~
 15 display shall be are lawful for that purpose only. No permit
 16 granted ~~hereunder shall be~~ under this section is
 17 transferable. The term "municipalities" ~~shall include~~
 18 includes cities, and incorporated towns ~~or townships."~~

19 Section 19. Section 69-4428.1, R.C.M. 1947, is amended
 20 to read as follows:

21 "69-4428.1. Disinterment — permit. (1) A body, after
 22 burial, may be disinterred for reinterment or transport,
 23 ~~upon obtaining after~~ a permit therefor is obtained from the
 24 local registrar of the jurisdiction where the body is
 25 interred.

1 (2) Administration of ~~the act shall be~~ this section is
 2 in the department of health and environmental sciences,
 3 which shall adopt rules accordingly. The rules shall provide
 4 that, as a ~~right~~ precondition to the permit, the applicant
 5 make a showing of reasonable cause for the disinterment.

6 (3) This ~~act~~ section provides a supplementary
 7 procedure for disinterment of a dead body, and is not
 8 amendatory to or repealing of any other act."

9 Section 20. Section 69-4504, R.C.M. 1947, is amended
 10 to read as follows:

11 "69-4504. County boards of health—~~composition.~~ There
 12 is a county board of health in each county consisting of:

13 (1) the county commissioners, and two ~~(2)~~ members who
 14 are appointed by the county commissioners and serve at their
 15 pleasure; or

16 (2) five ~~(5)~~ persons who are appointed by the county
 17 commissioners and serve at their pleasure. Terms of
 18 appointed members shall be staggered and ~~shall~~ be for ~~three~~
 19 ~~(3)~~ years each. ~~County~~ The county commissioners shall
 20 establish the staggered order of terms and all ~~regulations~~
 21 rules necessary to establish and maintain the board."

22 Section 21. Section 69-4508, R.C.M. 1947, is amended
 23 to read as follows:

24 "69-4508. Financing of local boards of health —
 25 appropriations — tax levies. (1) Local boards are financed

by general fund appropriations, special levy appropriations, state and federal funds available, and contributions from school boards and other official and nonofficial agencies.

(2) Appropriations are made as follows:

(a) County boards are financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments under Title 16, chapter 19, ~~Title 16, R. C. M. 1947.~~

(b) City boards are financed by an appropriation from the general fund of the city after approval of a budget in the way provided for other city offices and departments under Title 11, chapter 14, ~~Title 11, R. C. M. 1947.~~

(c) If a city-county board is created, it is financed by one of the following methods:

(i) The county commissioners and governing body of ~~the~~ each participating city, or cities, may mutually agree upon the division of expenses. The ~~county county's~~ part of ~~the~~ total expenses is financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments under Title 16, chapter 19, ~~Title 16, R. C. M. 1947.~~ ~~The city, or cities,~~ Each participating city's part of ~~the~~ total ~~costs~~ expenses is financed by an appropriation from the general fund of the city, ~~or cities, participating in the~~

~~city-county board~~ after approval of a budget in the way provided for other city offices and departments under Title 11, chapter 14, ~~Title 11, R. C. M. 1947.~~ All moneys shall be deposited with the county treasurer who shall disburse them as county funds, ~~or~~

(ii) In first and second class counties, the county commissioners and governing body of ~~the~~ each participating city, or cities, may mutually agree upon the division of the expenses. The ~~county county's~~ part of ~~the~~ total expenses is financed by a special levy of not more than ~~five (5)~~ mills on the taxable valuation of all property outside the incorporated limits of ~~the~~ each participating city, or cities, ~~participating in the city-county board~~ after approval of a budget in the way provided for other county offices and departments under Title 16, chapter 19, ~~Title 16, R. C. M. 1947.~~ If the ~~five (5)~~ 5-mill levy is not sufficient to fund the ~~county county's~~ share, ~~the~~ county commissioners may supplement it with an appropriation from the county general fund. Each ~~city, or cities,~~ participating city's part of ~~the~~ total ~~costs~~ expenses is financed by a special levy of not more than ~~five (5)~~ mills on the taxable valuation of all property within the incorporated limits of ~~the city, or cities, participating in the city-county board~~ after approval of a budget in the way provided for other city offices and departments under Title 11, chapter 14,

~~Title 11, R.C.S. 1947.~~ All moneys shall be deposited with the county treasurer who shall disburse them as county funds. The special levies authorized by this subsection are in addition to all other levies authorized by law.

(d) District boards are financed by appropriations from the general funds of ~~the counties~~ each county in the district in proportion to the population in each county. First and second class cities which elect to be included in the district contribute to the county in which they are located in the way provided for city-county boards under subsection (2) (c) of this section. All funds shall be deposited with the county treasurer of one ~~(4)~~ of the counties as agreed upon by the commissioners of the counties in the district. The county treasurer shall disburse the funds as county funds.

(3) School boards and other official and nonofficial agencies may contribute funds to a local board.

(4) If the general fund of a city or county is not sufficient to meet the approved budget, a levy of not more than ~~one (1)~~ mill may be made on the taxable valuation of all property in the city or county in addition to all other levies authorized by law. This subsection does not apply when the board has been financed under subsection (2) (c) (ii) of this section."

Section 22. Section 69-5201, R.C.M. 1947, is amended

to read as follows:

"69-5201. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Hospital" means ~~any~~ a health care facility licensed by the department of ~~health and environmental sciences~~ to provide, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, and care of injured, disabled, or sick persons. Services provided may or may not include obstetrical care. A health care facility, in order to be licensed as a hospital, must have an organized medical staff, ~~shall~~ provide ~~twenty-four~~ ~~(24)~~ 24-hour nursing care by licensed professional nurses, and ~~shall~~ be in compliance with the ~~regulations~~ rules for licensed hospitals ~~as promulgated and~~ adopted by the ~~state department of health and environmental sciences~~.

(2) "~~Hospital-related~~ Hospital-related facility" means a facility licensed by the department of ~~health and environmental sciences~~ to provide ~~any or all of the following~~ diagnosis, treatment, medical or nursing care, or medically related rehabilitation services. Such facilities include, but are not limited to, outpatient facilities, public health centers, rehabilitation facilities, long-term care facilities, infirmaries, mental health and mental retardation institutions, ~~alcohol~~

1 alcoholism and drug dependency centers, and half-way houses.
 2 A health care facility, in order to be licensed as a
 3 ~~"hospital-related hospital-related facility"~~, shall be in
 4 compliance with the regulations for the specific category
 5 of facility, ~~as promulgated and~~ adopted by the state
 6 department of health and environmental sciences.

7 ~~(4)(3)~~ "Outpatient facility—A" means a physically
 8 separate component of a licensed hospital, or a medical
 9 clinic or other establishment owned or operated by a
 10 licensed physician ~~or physicians~~, which has an observation
 11 bed or beds and ~~which~~ provides to patients, not requiring
 12 hospitalization, the services of persons licensed to
 13 practice medicine or dentistry in the state of Montana. ~~As~~
 14 ~~"observation bed" is a bed used by a patient recovering from~~
 15 ~~surgery or other treatment.~~ No patient shall may be allowed
 16 to remain in an outpatient facility for more than ~~six~~ (6)
 17 hours.

18 (4) An "observation bed" is a bed used by a patient
 19 recovering from surgery or other treatment.

20 ~~(4)(5)~~ "Outpatient facility—B" means a facility
 21 operated physically apart from a hospital, other than a
 22 medical clinic or other establishment owned or operated by a
 23 licensed physician ~~or physicians~~, which provides to
 24 ambulatory patients, not requiring hospitalization, the
 25 services of persons licensed to practice medicine or

1 dentistry in ~~the state of~~ Montana, but which does not have
 2 an observation bed or beds as defined in subsection ~~(2)~~ ~~(4)~~
 3 (4).

4 ~~(4)(6)~~ "Public health ~~centers~~ center" means a publicly
 5 owned facility utilized by a local health unit for the
 6 provision of public health services, including related
 7 public facilities such as laboratories, clinics, and
 8 administrative offices operated in connection with a public
 9 health ~~centers~~ center.

10 ~~(4)(7)~~ "Rehabilitation facility" means a facility
 11 providing community service which is operated for the
 12 primary purpose of assisting in the rehabilitation of
 13 disabled persons through an integrated program under
 14 competent professional supervision, including medical
 15 services and evaluation, and psychological, social, and
 16 vocational services and evaluation.

17 ~~(4)(8)~~ (a) "Long-term care facility" means a place
 18 which provides skilled nursing care to a total of two ~~(2)~~ or
 19 more persons or personal care to more than three ~~(3)~~
 20 persons, who, by reason of illness or disability, are unable
 21 to properly care for themselves and are not related to the
 22 owner or administrator by blood or marriage, and ~~may be~~
 23 includes the facilities defined as follows:

24 (i) "Skilled nursing facilities" are establishments
 25 furnishing continuous skilled nursing care and related

1 services ~~twenty-four~~ (24) hours a day.

2 (ii) "Intermediate care facilities—A" are
3 establishments furnishing limited skilled nursing care and
4 personal care.

5 (iii) "Intermediate care facilities—B" are
6 establishments providing only personal care and services to
7 residents.

8 (iv) "Combination facilities" are establishments
9 providing two ~~(2)~~ or more of the following services: skilled
10 nursing care and intermediate care—A and ~~or~~ B.

11 ~~(*)~~ (b) Hotels, motels, boarding houses, rooming
12 houses, or similar accommodations providing for transients,
13 students, or persons not requiring institutional health care
14 are not considered to be long-term care facilities.

15 ~~(*)~~ (9) "Infirmary" means a facility located in a
16 university, college, government institution, or industry,
17 for the treatment of the sick or injured.

18 ~~(*)~~ (10) "Infirmary—A" provides outpatient and
19 inpatient care.

20 ~~(*)~~ (11) "Infirmary—B" provides outpatient care only.

21 ~~(*)~~ (12) "Person" means ~~any~~ an individual, firm,
22 partnership, association, ~~or~~ corporation, or governmental
23 unit.

24 ~~(*)~~ (13) "Governmental unit" means the state, a state
25 agency, ~~any~~ a county, municipality, or political subdivision

1 of the state, or an agency of ~~any~~ a political subdivision.

2 ~~(5)~~ (14) "Resident" means a person who is in a long-term
3 care facility as a patient or for personal care.

4 ~~(6)~~ (15) "Health care facility" means a hospital,
5 ~~hospital-related~~ hospital-related facility, or long-term
6 care facility.

7 ~~(7)~~ (16) "Department" means ~~state~~ the department of
8 health and environmental sciences provided for in Title 82A,
9 chapter 6.

10 ~~(8)~~ (17) "Construction" means the erection, expansion,
11 remodeling, or alteration of ~~any~~ a new or existing facility,
12 the capital expenditure for which amounts to ~~fifty-thousand~~
13 ~~dollars~~ (\$50,000) or more in any ~~twelve-month~~ 12-month
14 period, or any substantial change in services, ~~or~~ any
15 increase or decrease in the number of beds in excess of ~~ten~~
16 ~~percent~~ (10%) of the licensed capacity of the facility, or
17 in excess of ~~ten~~ (10) beds, whichever is the lesser, or any
18 purchase of therapeutic or diagnostic equipment (excluding
19 replacement of existing equipment) in any ~~twelve-month~~
20 12-month period, at a cost exceeding ~~two-percent~~ (2%) of the
21 facility's total operating costs for the most recently
22 completed fiscal year up to a maximum of ~~one-hundred~~
23 ~~thousand dollars~~ (\$100,000), or exceeding ~~ten-thousand~~
24 ~~dollars~~ (\$10,000), whichever is larger. All exemptions from
25 this definition must nevertheless be consistent with the

1 state medical facilities plan of the department."

2 Section 23. Section 69-5207, R.C.M. 1947, is amended
3 to read as follows:

4 "69-5207. Denial of application for long-term care
5 facility. The department may deny an application for a
6 long-term care facility license if:

7 (1) it fails to meet minimum standards prescribed
8 under ~~section~~ 69-5213;

9 (2) the staff is insufficient in number or unqualified
10 by lack of training or experience;

11 (3) the applicant or any person managing it has been
12 convicted of a felony and denial of a license on that basis
13 is qualified by 66-4003 or the applicant otherwise shows
14 evidence of character traits inimical to the health and
15 safety of residents; or

16 (4) ~~it the applicant~~ does not have the financial
17 ability to operate the facility in accordance with law, ~~or~~
18 rules, or standards adopted by the department."

19 Section 24. Section 69-5502, R.C.M. 1947, is amended
20 to read as follows:

21 "69-5502. Definitions. As used in this chapter, unless
22 the context clearly indicates otherwise, the following
23 definitions apply:

24 (1) "Public swimming pool" means ~~any~~ an artificial
25 pool and bathhouses and related appurtenances for swimming,

1 bathing, or wading, including natural hot water pools. The
2 term does not include:

3 (a) swimming pools located on private property used
4 for swimming or bathing only by the owner, members of his
5 family, or their invited guests; or

6 (b) medicinal hot water baths for individual use.

7 (2) "Public bathing place" means a body of water ~~and~~
8 with bathhouses and related appurtenances operated for the
9 public.

10 (3) "Person" means a person, firm, partnership,
11 corporation, organization, the state, or any political
12 subdivision of the state."

13 Section 25. Section 69-6701, R.C.M. 1947, is amended
14 to read as follows:

15 "69-6701. Definitions. (1) "Department" means the
16 department of health and environmental sciences provided for
17 in Title 82A, chapter 6.

18 (2) "Standard serological test" means a test for
19 syphilis, rubella immunity, and blood group, including ABO
20 (Landsteiner blood type designation—O, A, B, AB) and RH
21 (Dd) type, approved by the department."

22 Section 26. Section 69-6704, R.C.M. 1947, is amended
23 to read as follows:

24 "69-6704. Certificate form. The "certificate form" to
25 be provided the physician recording the results of the test

made by the laboratory shall be the same form as that provided with respect to the premarital standard serological test in ~~section 48-135.~~"

Section 27. Section 69-7102, R.C.M. 1947, is amended to read as follows:

"69-7102. Definitions. In this act the following definitions apply:

(1) "Department" means the department of health and environmental sciences provided for in Title 82A, chapter 6.

(2) "Person" includes an individual, partnership, corporation, or association, or his legal representative or agent.

(3) "Commerce" means all commerce within this state and subject to the jurisdiction thereof, and includes the operation of any business or service establishment.

(4) (a) "Hazardous substance" means:

~~(a) (i)~~ ~~any~~ a substance or mixture of substances which:

(A) is toxic;

(B) is corrosive;

(C) is an irritant;

(D) is a strong sensitizer;

(E) is flammable or combustible; or

(F) generates pressure through decomposition, heat, or other means, if ~~such~~ the substance or mixture of substances may cause substantial personal injury or substantial illness

during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;

(ii) ~~any~~ substances which the department by rule finds, under ~~section 69-7103(1)~~, meet the requirements of ~~subparagraph (a) (i) of this paragraph~~ subsection (4) (a) (i) of this section;

(iii) ~~any~~ a radioactive substance, if, with respect to ~~such~~ the substance as used in a particular class of article or as packaged, the department determines by rule that the substance is sufficiently hazardous to require labeling in accordance with this act in order to protect the public health; or

(iv) ~~any~~ a toy or other article intended for use by children which presents an electrical, mechanical, or thermal hazard, as determined by the department by rule ~~determines~~ in accordance with ~~section 69-7103(5) of this act~~ presents an electrical, mechanical, or thermal hazard.

(b) The term "hazardous substance" does not apply to pesticides subject to the ~~Federal~~ federal Pesticide Environmental Control Act or the Montana ~~Pesticide~~ Pesticides Act, ~~as~~ to foods, drugs, and cosmetics subject to the Montana Food, Drug, and Cosmetic Act, ~~as~~ or to substances intended for use as fuels when stored in containers and used in the heating, cooking, or

1 refrigeration system of a house, ~~but the~~ The term applies,
 2 however, to ~~any~~ an article which is not itself a pesticide
 3 within the meaning of the ~~Federal~~ federal Pesticide
 4 Environmental Control Act or the Montana Pesticide Act, but
 5 which is a hazardous substance within the meaning of
 6 ~~subparagraph (a)~~ subsection (4) (a) of this paragraph section
 7 by reason of bearing or containing ~~such~~ a pesticide, ~~the~~
 8 The term also applies to pesticides ~~where~~ whenever human
 9 health is directly affected from the use or misuse of
 10 pesticides requiring an accident investigation for the
 11 purpose of preparing recommendations to federal or state
 12 pesticide control agencies.

13 (c) The term "hazardous substance" does not include
 14 ~~any~~ source material, special nuclear material, or by-product
 15 material as defined in the Atomic Energy Act of 1954, as
 16 amended, and rules issued pursuant thereto by the atomic
 17 energy commission.

18 (5) "Toxic" means ~~any~~ a substance (other than a
 19 radioactive substance) which has the capacity to produce
 20 personal injury or illness to man through ingestion,
 21 inhalation, or absorption through any body surface.

22 (6) (a) "Highly toxic" means ~~any~~ a substance which
 23 falls within any of the following categories:

24 (i) produces death within ~~fourteen~~ (14) days in
 25 one-half ~~(1/2)~~ or more of a group of ~~ten~~ (10) or more

1 laboratory white rats each weighing between ~~two-hundred~~
 2 ~~(200)~~ and ~~three-hundred~~ (300) grams, at a single dose of
 3 ~~fifty~~ (50) milligrams or less per kilogram of body weight,
 4 when orally administered; ~~or~~

5 (ii) produces death within ~~fourteen~~ (14) days in
 6 one-half ~~(1/2)~~ or more of a group of ~~ten~~ (10) or more
 7 laboratory white rats each weighing between ~~two-hundred~~
 8 ~~(200)~~ and ~~three-hundred~~ (300) grams, when inhaled
 9 continuously for a period of ~~one~~ (1) hour or less at an
 10 atmosphere concentration of ~~two-hundred~~ (200) parts per
 11 million or less by volume ~~or less~~ of gas or vapor ~~or~~ two (2)
 12 milligrams per liter or less by volume ~~or less~~ of mist or
 13 dust, if ~~such~~ that concentration is likely to be encountered
 14 by man when the substance is used in ~~any~~ a reasonably
 15 foreseeable manner; or

16 (iii) produces death within ~~fourteen~~ (14) days in
 17 one-half ~~(1/2)~~ or more of a group of ~~ten~~ (10) or more
 18 rabbits tested in a dosage of ~~two-hundred~~ (200) milligrams
 19 or less per kilogram of body weight, when administered by
 20 continuous contact with the bare skin for ~~twenty-four~~ (24)
 21 hours or less.

22 (b) If the department finds that available data on
 23 human experience with ~~any~~ a substance indicate results
 24 different from those obtained on animals in the above-named
 25 dosages or concentrations, the human data shall take

precedence.

(7) "Corrosive" means ~~any~~ a substance which in contact with living tissue will cause destruction of tissue by chemical action, but does not refer to action on inanimate surfaces.

(8) "Irritant" means ~~any~~ a substance not corrosive within the meaning of subsection (7) of this section which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(9) "Strong sensitizer" means a substance which will cause on normal living tissue, through an allergic or photodynamic process, a hypersensitivity.

(10) (a) "Extremely flammable" applies to ~~any~~ a substance which has a flash point at or below ~~twenty degrees~~ (20) fahrenheit 20 degrees F. as determined by the tagliabue open cup tester.

~~(a)(b)~~ "Flammable" applies to ~~any~~ a substance which has a flash point ~~of above twenty degrees~~ (20) 20 degrees to and including ~~eighty degrees~~ (80) fahrenheit 80 degrees F. as determined by the tagliabue open cup tester.

~~(b)(c)~~ "Combustible" applies to ~~any~~ a substance which has a flash point above ~~eighty degrees~~ (80) fahrenheit 80 degrees to and including ~~one hundred fifty degrees~~ (150) 150 degrees F. as determined by the tagliabue open cup tester, ~~except that the~~

(d) The flammability or combustibility of solids and of the contents of self-pressurized containers shall be determined by methods found by the department to be generally applicable to ~~such~~ the materials or containers, respectively, and established by rules issued by the department, which rules shall also define the terms "flammable", "combustible", and "extremely flammable" in accord with ~~such~~ the methods used.

(11) "Radioactive substance" means a substance which emits ionizing radiation.

(12) "Label" means a display of written, printed, or graphic matter upon the immediate container ("immediate container" does not include package liners) of ~~any~~ a substance, or, in the case of an article which is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, a display of such matter directly upon the article involved or upon a tag or other suitable material affixed thereto, ~~and~~ a requirement made by or under authority of this act that ~~any~~ a word, statement, or other information appear on the label shall not be considered to be complied with unless ~~such~~ the word, statement, or other information also appears:

(a) on the outside container or wrapper, if any, unless it is easily legible through the outside container or wrapper, and

(b) on all accompanying literature where there are directions for use, written or otherwise.

~~(12) "Immediate container" does not include package liners.~~

~~(14)~~ (13) "Misbranded hazardous substance" means a hazardous substance (including a toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such a manner as to be susceptible of access by a child to whom ~~such~~ the toy or other article is entrusted) intended, or packaged in a form suitable for use by the public or by children, which ~~substance~~, except as otherwise provided ~~by or under section 69-7103 under 69-7103(2) or (3)~~, fails to bear a label:

(a) which states conspicuously:

(i) the name and place of business of the manufacturer, packer, distributor, or seller;

(ii) the common or usual name or the chemical name (if there ~~be no~~ is not a common or usual name) of the hazardous substance or ~~of~~ each component which contributes substantially to its hazard, unless the department by rule permits or requires the use of a recognized generic name;

(iii) the signal word "danger" on substances which are extremely flammable, corrosive, or highly toxic;

(iv) the signal word on all other hazardous substances;

(v) an affirmative statement of the principal hazard or hazards, such as:

(A) "flammable";

(B) "combustible";

(C) "vapor harmful";

(D) "causes burns";

(E) "absorbed through skin"; or

(F) similar wording descriptive of the hazard;

(vi) precautionary measures describing the action to be followed or avoided, except when modified by a rule of the department under ~~section 69-7103(2) or (3)~~:

(vii) instruction, when necessary or appropriate, for ~~first-aid~~ first aid treatment;

(viii) "poison" for any hazardous substance which is defined as "highly toxic" by subsection (6) of this section; and

(ix) instructions for handling and storage ~~of~~ of packages which require special care in handling or storage such as:

(A) "keep out of the reach of children" or its practical equivalent; or

(B) if the article is intended for use by children and is not a banned hazardous substance, adequate directions for the protection of children from the hazard; and

(h) on which ~~any~~ a statement required under

~~subparagraph (a) of this paragraph are subsection (13) (a) of~~
 this section is located prominently and ~~are~~ is in the
 English language in conspicuous and legible type in contrast
 by typography, layout, or color with other printed matter on
 the label.

~~(13), (14)~~ (a) "Banned hazardous substance" means:

(i) ~~any~~ a toy, or other article intended for use by
 children, which is a hazardous substance, or which bears or
 contains a hazardous substance in such a manner as to be
 susceptible of access by a child to whom the toy or other
 article is entrusted; or

(ii) ~~any~~ a hazardous substance intended, or packaged in
 a form suitable for use by the general public which the
 department by rule classifies as a "banned hazardous
 substance" on the basis of a finding that, notwithstanding
 such cautionary labeling as is or may be required under this
 act for that substance, the degree or nature of the hazard
 involved in the presence or use of ~~such~~ the substance by
 the general public is such that the objective of the
 protection of the public health and safety can be adequately
 served only by keeping the substance, when so intended or
 packaged, out of the channels of commerce. ~~However, the~~

(b) The department by rule shall exempt from ~~clause~~
~~(1) of this paragraph subsection (14) (a) (i) of this section~~
 articles, such as chemical sets, which, by reason of their

functional purpose, require the inclusion of the hazardous
 substance involved or necessarily present an electrical,
 mechanical, or thermal hazard, and which bear labeling
 giving adequate directions and warnings for safe use and are
 intended for use by children who have attained sufficient
 maturity, and ~~may~~ reasonably be expected, to read and heed
 the directions and warnings.

~~(b) (C)~~ Proceedings for the issuance, amendment, or
 repeal of rules under ~~clause (ii) of subparagraph (a) of~~
~~this paragraph subsections (14) (a) (ii) and (14) (b) of this~~
~~section~~ shall be governed by the provisions of ~~section~~
~~69-7103 of the act subsections (4) and (5) of 69-7103.~~

~~(14), (15)~~ An article may be determined to present an
 electrical hazard if, in normal use or when subjected to
 reasonably foreseeable damage or abuse, its design or
 manufacture may cause personal injury or illness by electric
 shock.

~~(17), (16)~~ An article may be determined to present a
 mechanical hazard if, in normal use or when subjected to
 reasonably foreseeable damage or abuse, its design or
 manufacture presents an unreasonable risk of personal injury
 or illness:

(a) from fracture, fragmentation, or disassembly of
 the article;

(b) from propulsion of the article (or ~~any~~ a part or

1 accessory thereof);
 2 (c) from points or other protrusions, surfaces, edges,
 3 openings, or closures;
 4 (d) from moving parts;
 5 (e) from lack or insufficiency of controls to reduce
 6 or stop motion;
 7 (f) as a result of self-adhering characteristics of
 8 the article;
 9 (g) because the article (or ~~any~~ a part or accessory
 10 thereof) may be aspirated or ingested;
 11 (h) because of instability; or
 12 (i) because of any other aspect of the article's
 13 design or manufacture.
 14 ~~(18)~~ (17) An article may be determined to present a
 15 thermal hazard if, in normal use or when subjected to
 16 reasonably foreseeable damage or abuse, its design or
 17 manufacture presents an unreasonable risk of personal injury
 18 or illness because of heat as from heated parts, substances,
 19 or surfaces.
 20 ~~(19)~~ (18) "Court" means, in ~~section 69-7103~~ 69-7103(5),
 21 the district court for the first judicial district; and, in
 22 ~~sections 69-7106 and 69-7107~~, the district court ~~is~~ in the
 23 district ~~in which~~ where the violation occurs."
 24 Section 28. Section 69-7103, R.C.M. 1947, is amended
 25 to read as follows:

1 "69-7103. Declaration of hazardous substance —
 2 labeling requirements — court proceedings. (1) When in the
 3 judgment of the department such action will promote the
 4 objectives of this act by avoiding or resolving uncertainty
 5 as to its application, the department may by rule declare to
 6 be a hazardous substance, ~~for the purposes of this act, any~~
 7 a substance or mixture of substances which the department
 8 finds meets the requirements of ~~subparagraph (a) (i)~~
 9 subsection (4) (a) (i) of section 69-7102(4) 69-7102.
 10 (2) If the department finds that the requirements of
 11 ~~section 69-7102(14) (a) 69-7102(13) (a)~~ are not adequate for
 12 the protection of the public health and safety in view of
 13 the special hazard presented by ~~any particular~~ a hazardous
 14 substance, the department may by rule establish such
 15 reasonable variations or additional ~~label~~ labeling
 16 requirements as are necessary for the protection of the
 17 public health and safety, and ~~any such~~ a hazardous substance
 18 intended, or packaged in a form suitable, for use by the
 19 general public or by children, which fails to bear a label
 20 in accordance with the rules ~~shall be~~ is a misbranded
 21 hazardous substance.
 22 (3) If the department finds that, because of the size
 23 of the package involved or because of the minor hazard
 24 presented by the substance contained therein, or for other
 25 good and sufficient reasons, full compliance with the

1 labeling requirements otherwise applicable under this act is
 2 impracticable or is not necessary for the adequate
 3 protection of the public health and safety, the department
 4 shall adopt rules exempting ~~such~~ the substance from these
 5 requirements to the extent of being consistent with adequate
 6 protection of the public health and safety.

7 (4) If the department finds that the hazard of an
 8 article subject to this act is such that labeling adequate
 9 to protect the public health and safety cannot be devised,
 10 or the article presents an imminent danger to the public
 11 health and safety, the department may declare the article a
 12 banned hazardous substance and require its removal from
 13 commerce.

14 (5) (a) A determination by the department that a toy
 15 or other article intended for use by children presents an
 16 electrical, mechanical, or thermal hazard shall be made by
 17 rule in accordance with this act.

18 (b) If, before or during a proceeding under ~~paragraph~~
 19 ~~(a) of this subsection~~ subsection (5)(a) of this section,
 20 the department finds that, because of an electrical,
 21 mechanical, or thermal hazard, distribution of ~~the~~ a toy or
 22 other article involved presents an imminent hazard to the
 23 public health and the department gives notice of ~~such~~ the
 24 finding, the toy or other article ~~shall be~~ is a banned
 25 hazardous substance for purposes of this act until the

1 proceeding has been completed. If not yet initiated when
 2 the notice is given, the proceeding shall be initiated as
 3 promptly as possible.

4 (c) (i) In the case of ~~any~~ a toy or other article
 5 intended for use by children which is determined by the
 6 department to present an electrical, mechanical, or thermal
 7 hazard, ~~any~~ a person who will be adversely affected by ~~such~~
 8 the a determination may, at any time before the ~~sixtieth~~
 9 60th day after the rule making the determination is issued
 10 by the department, file a petition with the court for a
 11 judicial review of ~~such~~ the determination. A copy of the
 12 petition shall be immediately transmitted by the clerk of
 13 the court to the department. The department shall file in
 14 the court the record of the proceedings on which the
 15 department based its determination.

16 (ii) If the petitioner applies to the court for leave
 17 to adduce additional evidence, and shows to the satisfaction
 18 of the court that ~~such~~ the additional evidence is material
 19 and that there was no opportunity to adduce ~~such~~ the
 20 evidence in the proceeding before the department, the court
 21 may order ~~such~~ the additional evidence (and evidence in
 22 rebuttal thereof) to be taken before the department in a
 23 hearing or in ~~such other~~ another manner, and upon ~~such other~~
 24 terms and conditions, as the court ~~may consider~~ considers
 25 proper. The department may modify ~~their~~ its findings as to

the facts, or make new findings, by reason of the additional evidence so taken, and ~~they~~ it shall file ~~such~~ the modified or new findings, and ~~their~~ its recommendation, if any, for the modification or setting aside of ~~their~~ its original determination, with the return of ~~such~~ the additional evidence.

(iii) Upon the filing of the petition under ~~this paragraph subsection (5)(c) of this section~~, the court has jurisdiction to review the determination of the department. If the court ordered additional evidence to be taken under ~~subparagraph (ii) of this paragraph subsection (5)(c)(ii) of this section~~, the court shall also review the department's determination to determine if, on the basis of the entire record before the court under ~~subparagraphs (i) and (ii) of this paragraph subsections (5)(c)(i) and (5)(c)(ii) of this section~~, it is supported by substantial evidence. If the court finds the determination is not so supported, the court may set it aside. With respect to ~~any~~ a determination reviewed under ~~this paragraph subsection (5)(c) of this section~~, the court may grant appropriate relief pending conclusion of the review proceedings."

Section 29. Section 69-7105, R.C.M. 1947, is amended to read as follows:

"69-7105. Penalty — exceptions. (1) ~~Any~~ A person who violates ~~any of~~ the provisions of ~~section~~ 69-7104 is guilty

of a misdemeanor and shall be fined ~~not~~ no more than five hundred dollars (\$500) or ~~be~~ imprisoned for ~~not more than~~ any term not to exceed ninety (90) days, or both. For offenses committed with intent to defraud or mislead, or for second and subsequent offenses, the penalty shall be imprisonment for ~~not more than~~ any term not to exceed one (1) year, or a fine of ~~not~~ no more than ~~three thousand~~ dollars (\$3,000), or both ~~imprisonment and fine~~.

(2) No person is subject to the penalties of subsection (1) of this section:

(a) for having violated ~~section~~ 69-7104(3), if the receipt, delivery, or proffered delivery of the hazardous substance was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the department, the name and address of the person from whom he purchased or received ~~such~~ the hazardous substance, and copies of all documents, ~~if any there be~~, pertaining to the delivery of the hazardous substance to him; or

(b) for having violated ~~section~~ 69-7104(1), if he establishes a guarantee or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous substance, to the effect that the hazardous substance is not a misbranded ~~hazardous~~ or a banned hazardous substance within the meaning of those terms in the

1 this act."

2 Section 30. Section 69-7107, R.C.M. 1947, is amended
3 to read as follows:

4 "69-7107. Detainer of misbranded or banned hazardous
5 substance. (1) ~~Whenever~~ If a duly authorized agent of the
6 department finds or has probable cause to believe that ~~any~~ a
7 hazardous substance is a misbranded, or is a banned
8 hazardous substance, within the meaning of this act, he
9 shall affix to ~~such~~ the article a tag or other appropriate
10 marking, giving notice that ~~such~~ the article is, or is
11 suspected of being, misbranded or is a banned hazardous
12 substance and has been detained or embargoed, and warning
13 all persons not to remove or dispose of ~~such~~ the article by
14 sale or otherwise until permission for removal or disposal
15 is given by ~~such~~ the agent or the court. It ~~shall be~~ is
16 unlawful for ~~any~~ a person to remove or dispose of ~~such~~ a
17 detained or embargoed article by sale or otherwise without
18 ~~such~~ permission.

19 (2) ~~When~~ If an article detained or embargoed under
20 subsection (1) ~~has been~~ is found by ~~such~~ the agent to be
21 misbranded or a banned hazardous substance, he shall
22 petition the judge ~~or of~~ the police city, county, justice's,
23 or circuit district court in whose jurisdiction the article
24 is detained or embargoed for a ~~label~~ an order of
25 condemnation of ~~such~~ the article. ~~When such~~ If the agent

1 ~~has found~~ finds that an article so detained or embargoed is
2 not misbranded or a banned hazardous substance, he shall
3 remove the tag or other marking.

4 (3) If the court finds that a detained or embargoed
5 article is misbranded or a banned hazardous substance, ~~such~~
6 the article shall, after entry of the decree, be destroyed
7 at the expense of the claimant thereof, under supervision of
8 ~~such~~ the agent, and all court costs and fees and storage and
9 other proper expenses, ~~shall be~~ are to be taxed against the
10 claimant of ~~such~~ the article or his agent, ~~provided, that~~
11 ~~when~~ If the misbranding can be corrected by proper labeling
12 of the article, the court, after entry of the decree and
13 after ~~such~~ the costs, fees, and expenses have been paid and
14 a good and sufficient bond, conditioned that ~~such~~ the
15 article ~~shall~~ will be so labeled, has been executed, may by
16 order direct that ~~such~~ the article be delivered to the
17 claimant thereof for ~~such~~ the labeling under the supervision
18 of an agent of the department. The expense of ~~such~~ the
19 supervision shall be paid by the claimant. The article
20 shall be returned to the claimant on the representation to
21 the court by the department that the article is no longer in
22 violation of this act, and that the expenses of ~~such~~ the
23 supervision have been paid."

24 Section 31. Section 69-7108, R.C.M. 1947, is amended
25 to read as follows:

"69-7108. Duties of department and county attorney. It is the duty of the department or the county attorney to whom the department reports ~~any~~ a violation of this act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before ~~any~~ a violation of this act is reported to ~~any such a county~~ attorney for the institution of a criminal proceeding, the person against whom ~~such the~~ proceeding is contemplated shall be given appropriate notice and an opportunity to present his ~~view~~ views before the department, either orally or in writing, and either in person or by attorney, with regard to ~~such the~~ contemplated proceeding."

Section 32. Section 69-7110, R.C.M. 1947, is amended to read as follows:

"69-7110. Powers and duties of department's agents.

(1) For enforcement of this act, officers or employees duly designated by the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized to:

(a) ~~to enter, at reasonable time, any times a~~ factory, warehouse, or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into commerce or are held after such introduction; ~~or~~

(b) ~~to enter any a~~ vehicle being used to transport or hold ~~such~~ hazardous substances in commerce;

~~(b)(c)~~ (c) ~~to inspect, at reasonable times, and within~~ reasonable limits, and in a reasonable manner, ~~such a~~ factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished materials, and labeling therein; and

~~(b)(d)~~ (d) ~~to obtain samples of such materials or packages or labeling thereof, or of such labeling.~~

(2) If the officer or employee obtains ~~any~~ a sample, prior to leaving the premises, he shall pay or offer to pay the owner, operator, or agent in charge for ~~such the~~ sample and give a receipt describing the samples obtained.

(3) The department ~~will~~ shall conduct investigations of reported accidental injuries, illnesses, and deaths resulting from the use or misuse of all hazardous substances, as defined by 69-7102(4)(a)(i), intended or suitable for use by the general public ~~as defined under section 69-7102(4)(a)(i).~~ Investigations ~~will~~ shall evaluate the causative hazardous substance and circumstances of the accident for enforcement of this act. ~~Where~~ If the offending hazardous substance is a pesticide regulated by another agency ~~as under the Federal federal~~ under the Federal Environmental Pesticide Control Act or the Montana ~~Pesticide Pesticides~~ Act, the investigation ~~will~~ shall yield recommendations to

the appropriate regulating agency for appropriate action."

Section 33. Section 82-1201, R.C.M. 1947, is amended to read as follows:

"82-1201. ~~Creation of office of state fire~~ Fire marshal fire prevention advisory commission bureau.

(1) There is ~~an office of state a~~ a fire marshal, bureau in the department of justice which is under the supervision and control of the ~~commissioner of insurance~~ attorney general.

(2) The ~~state chief of the~~ fire marshal bureau shall be appointed by the ~~commissioner of insurance~~ attorney general and shall serve at his pleasure. The chief of the fire marshal bureau is the state fire marshal.

(3) A person appointed state fire marshal shall:

(a) have ~~at least ten (10)~~ years of progressively responsible experience in fire protection; ~~or~~

(b) have a degree in engineering from a recognized institution of higher education and ~~two (2)~~ years' experience in fire protection; or

(c) have a degree from a recognized institution of higher education in fire protection engineering or fire protection technology.

~~(4) Not later than thirty (30) days after this act becomes effective the commissioner of insurance shall appoint a fire prevention advisory commission composed of the following members:~~

~~(a) One person representing the fire insurance industry whose initial term shall be for one (1) year;~~

~~(b) One person representing industry whose initial term shall be for one (1) year;~~

~~(c) One person representing full-time paid fire departments whose initial term shall be for two (2) years;~~

~~(d) One person representing volunteer fire departments whose initial term shall be for two (2) years;~~

~~(e) One person representing architects of the state whose initial term shall be for three (3) years;~~

~~(f) One person representing the public whose initial term shall be for four (4) years;~~

~~(g) The commissioner of insurance.~~

~~After termination of the initial term, all members shall be appointed for four (4) year terms. Appointed members of the commission shall be reimbursed for meetings at the rate of twenty dollars (\$20) per day plus actual expenses including mileage, food, and lodging. The commissioner of insurance shall serve as chairman, and the state fire marshal shall serve as secretary of the commission."~~

Section 34. Section 82-1202, R.C.M. 1947, is amended to read as follows:

"82-1202. Powers of ~~the state~~ and duties of fire marshal. (1) The state fire marshal shall:

~~(1)(a) Make~~ make at least one inspection ~~during every~~
~~a year,~~ of each state institution, and submit a copy of the
 report to the state department of institutions with
 recommendations in regard to fire prevention, fire
 protection, and ~~to the public safety;~~

~~(2)(b) Make~~ make at least one inspection ~~during every~~
~~a year,~~ of each unit of the Montana university system, and
 submit a copy of the report to the ~~executive secretary of~~
~~the university system~~ commissioner of higher education with
 recommendations in regard to fire prevention, fire
 protection, and ~~to the public safety;~~

~~(3)(c) Inspect~~ inspect public, business, or industrial
 buildings and require conformance to law ~~or~~ and rules
 promulgated under the provisions of this ~~act~~ chapter; and

~~(4)(d) Do~~ do all things necessary and convenient for
 carrying into effect the fire prevention laws of this state,
~~governing this act and~~

(2) The state fire marshal may:

(a) adopt necessary rules necessary for safeguarding
lives life and property from the hazards of fire and
 explosion; and rules shall be adopted as prescribed in the
~~"Montana Administrative Procedure Act".~~

(b) If fire prevention rules are violated, the fire
marshal may if necessary to safeguard life and property
under rules promulgated pursuant to this section, maintain

an action to enjoin the use of all or a portion of a
 building or facility, or restrain a specific activity, until
 there is compliance with the rules.

~~(5) Rules relating to building and equipment standards~~
~~covered by the state or a municipal building code are~~
~~effective after approval by the department of administration~~
~~and filing with the secretary of state.~~

(3) Rules shall be adopted as prescribed in the
Montana Administrative Procedure Act."

Section 35. Section 82-1215, R.C.M. 1947, is amended
 to read as follows:

"82-1215. Duties of marshal and deputies in case of
 violation of law — false swearing or contemptuous conduct
 of witnesses. (1) If the state fire marshal or a deputy fire
 marshal ~~shall be~~ is notified by ~~any~~ an officer or other
~~persons,~~ person or ~~shall have knowledge~~ knows of ~~any~~ a
 violation of ~~any of the provisions of this act, or of the~~
 laws of this state relating to fires, ~~it shall be his duty~~
~~he shall forthwith immediately and~~ he shall forthwith immediately and diligently ~~to~~
 inquire into the facts of ~~such the~~ the violation, ~~and for that purpose~~
~~he~~ The state fire marshal or a deputy fire marshal is hereby
 authorized to ~~cause subpoenas to be~~ have a subpoena issued
 for ~~such persons~~ a person as he ~~shall have~~ has reason to
 believe ~~have any~~ has information or knowledge concerning, ~~or~~
~~knowledge of such a~~ knowledge of such a violation, of the laws relating to

1 fires. The subpoena shall command the person to appear
 2 before a justice of the peace at the time and place ~~to be~~
 3 designated in the subpoena, ~~then and there~~ to testify
 4 concerning ~~any a~~ violation of ~~any of the provisions of such~~
 5 ~~laws, the laws relating to fires, and for that~~ For the
 6 purpose of having a subpoena issued, the said state fire
 7 marshal or deputy fire marshal may file with ~~some~~ a justice
 8 of the peace a written statement signed by ~~said the~~ state
 9 fire marshal or deputy ~~state~~ fire marshal, alleging ~~any a~~
 10 violation of the laws of this state relating to fires, ~~or~~
 11 ~~any of the provisions of this act, and naming the witness to~~
 12 be subpoenaed, and said The justice of the peace shall ~~then,~~
 13 ~~upon the written precept of the state fire marshal or~~
 14 ~~deputy state fire marshal,~~ issue a subpoena for the witness
 15 named ~~in said precept,~~ commanding ~~such witness~~ him to be
 16 ~~and~~ appear before ~~such the~~ justice of the peace at the time
 17 designated in ~~such the~~ subpoena, to testify concerning ~~any a~~
 18 violation of ~~the provisions of said laws the laws relating~~
 19 to fires. Such subpoenas The subpoena may be served by the
 20 sheriff or any ~~constable~~ peace officer of the county, or by
 21 any other person who is a citizen of the county, and shall
 22 be served and returned to ~~such the~~ state fire marshal, ~~or a~~
 23 deputy ~~state~~ fire marshal, or a justice of the peace, in the
 24 same manner that subpoenas are served and returned when
 25 issued by justices of the peace. ~~Each The~~ witness shall be

1 sworn to make true answers to all questions touching the
 2 matters under investigation propounded to him ~~touching the~~
 3 ~~matters under investigation,~~ and the his testimony of each
 4 witness shall be reduced to writing and be signed by the
 5 witness him. For the purpose of this act, the state fire
 6 marshal or a deputy state fire marshal ~~shall have authority~~
 7 is authorized to administer an oath to ~~any a~~ person
 8 appearing as a witness ~~as above provided in a proceeding~~
 9 investigating a violation of the laws relating to fires.
 10 False swearing in such a ~~matter or~~ proceeding ~~shall be~~ is
 11 perjury and shall be punished as such. ~~any disobedience~~
 12 Disobedience to ~~such a~~ subpoena, ~~or any~~ refusal to be sworn
 13 as a witness, or to sign the testimony given by ~~each a~~
 14 witness, or ~~any~~ refusal to answer ~~any a~~ proper question
 15 propounded to him, ~~shall be a witness is~~ a misdemeanor, and
 16 ~~any a~~ person convicted thereof shall be ~~punished by a fine~~
 17 ~~of not fined no~~ more than ~~one hundred dollars,~~ \$100 or by
 18 ~~imprisonment be imprisoned~~ in the county jail for ~~not more~~
 19 ~~than ninety days any term not to exceed 90 days,~~ or by both
 20 ~~such fine and imprisonment.~~

21 (2) Justices of the peace a justice of the peace, when
 22 acting under the provisions of this act, ~~shall have power to~~
 23 ~~may~~ adjourn ~~such~~ proceedings from time to time, and to
 24 punish ~~any a~~ witness for contempt ~~for, or on account because~~
 25 of his refusal to be sworn, ~~or~~ to answer questions as a

1 witness, or to sign his testimony, ~~and the~~ The justice of
 2 the peace may compel the attendance of witnesses ~~may be by~~
 3 ~~such justice of the peace compelled~~ by attachment. If the
 4 testimony so taken ~~shall disclose~~ discloses the fact that an
 5 offense has been committed, the county attorney of the
 6 county in which ~~said the~~ offense was committed shall
 7 prosecute the person ~~or persons~~ committing ~~such the~~ offense
 8 in the same manner as in other criminal cases."

9 Section 36. Section 82-1226, R.C.M. 1947, is amended
 10 to read as follows:

11 "82-1226. Records of fire marshal. The state fire
 12 marshal shall keep in his office a record of all fires
 13 occurring in the state, the origin of ~~such the~~ fires, and
 14 all facts, statistics, and circumstances relating thereto
 15 which have been determined by investigations under the
 16 provisions of this chapter; ~~Except and, except for~~ the
 17 testimony given ~~upon during~~ an investigation, ~~such the~~
 18 record shall be open at all times to public inspection."

19 Section 37. Section 82-1229, R.C.M. 1947, is amended
 20 to read as follows:

21 "82-1229. Annual reports ~~to commissioner of insurance.~~
 22 The state fire marshal shall make an annual report to the
 23 ~~commissioner of insurance,~~ attorney general containing a
 24 detailed statement of his official action and the
 25 transactions of his department, ~~The commissioner of~~

1 ~~insurance and the attorney general~~ shall, in turn, submit
 2 ~~said the~~ report to the governor ~~of the state,~~ with such
 3 recommendations and comments thereon as he ~~may deem~~
 4 considers necessary."

5 Section 38. Section 94-5-615, R.C.M. 1947, is amended
 6 to read as follows:

7 "94-5-615. Definitions. As used in this act the
 8 following definitions apply:

9 (1) "Department" means the department of health and
 10 environmental sciences provided for in Title 82A, chapter 6.

11 (2) "Facility" means a hospital, health care facility,
 12 physician's office, or other place in which an abortion is
 13 performed.

14 (3) (a) "Informed consent" means voluntary consent to
 15 an abortion by the woman upon whom the abortion is to be
 16 performed only after full disclosure to her by the physician
 17 who is to perform the abortion of such of the following
 18 information as is reasonably chargeable to the knowledge of
 19 ~~such the~~ physician in his professional capacity:

20 ~~(i)~~ (i) ~~The the~~ stage of development of the fetus, the
 21 method of abortion to be utilized, and the effects of such
 22 abortion method upon the fetus;

23 ~~(ii)~~ (ii) ~~The the~~ physical and psychological effects of
 24 abortion; and

25 ~~(iii)~~ (iii) available ~~available~~ alternatives to abortion,

1 including childbirth and adoption.

2 (b) ~~Such informed~~ Informed consent may be evidenced by
3 a written statement in ~~the~~ a form prescribed by the
4 department and signed by the physician and the woman upon
5 whom the abortion is to be performed in which the physician
6 certifies that he has made the full disclosure provided
7 above and in which the woman upon whom the abortion is to be
8 performed acknowledges that the above disclosures have been
9 made to her and that she voluntarily consents to the
10 abortion.

11 (4) "Abortion" means the performance of, ~~or~~ assistance
12 or participation in the performance of, or submission to, an
13 act or operation intended to terminate a pregnancy without
14 live birth.

15 (5) "Viability" means the ability of a fetus to live
16 outside the mother's womb, albeit with artificial aid."

17 Section 39. Repealer. Sections 41-2101 through
18 41-2108, 69-1924, and 82-1232, R.C.M. 1947, are repealed.

-End-

COMMITTEE ON SENATE PUBLIC HEALTH, WELFARE AND SAFETY

SENATE BILL NO.	ENTERED COMM. 1977	DATE CONSIDERED 1977	OUT OF COMM. 1977	DO PASS DATE 1977	DO NOT PASS DATE 1977	DO PASS AS AMEND. DATE 1977	BE CON- CURRED IN DATE 1977	BE CONC. IN AS AMENDED DATE 1977	BE NOT CON CURRED IN DATE 1977
22	Jan. 3	Jan. 18	Jan. 20			Jan. 20			
29	" 3	" 11	" 12	Jan. 12					
76	" 12	did not	tabled	(another bill addressed same issue)					
77	" 12	" "	"	"	"	" "	"		
83	" 12	Jan. 20	Jan. 25			Jan. 25			
105	" 14	" 22	" 25			Jan. 25			
154	" 20	" 27	Feb. 3	Feb. 3					
157	" 20	" 27	" "			Feb. 3			
217	" 22	" 29	" "			" "			
221	" 22	Feb. 5	" 22			WITHOUT RECOMMENDATION			
244	Feb. 3	Feb. 12	Feb. 12		Feb. 12				
246	Jan. 24	Feb. 1	tabled	(another bill addressed same issue)					
269	" 25	" "	Feb. 17	Feb. 17					
273	" 25	Feb. 3	tabled	(substitute bill SB443 instead)					
310	" 27	----	Feb. 5	(to Local Government)					
329	Feb. 9	Feb. 15	Feb. 19	Feb. 19					

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

January 11, 1977

The second meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Stephens on the above date in Room 405 of the State Capitol Building at approximately 11:15 A.M.

ROLL CALL: All members were present, excepting Senator Watt.

CONSIDERATION OF SENATE BILL NO. 29: Senate Bill 29 would generally revise and clarify the laws relating to health and safety.

Chairman Stan Stephens introduced Mr. Bobinski, Staff Attorney, Legislative Council, to the Committee. Attorney Bobinski, with the aid of a handout (Xerox copy of Chapter 5 - Recodification of Revised Codes of Montana 1947. See Exhibit B.) proceeded to define the word "Recodify" for the Committee, in the way of explanation of exactly what Senate Bill 29 would do. He further explained individual proposed amendments (please see Montana Legislative Council Summary of Senate Bill 29, attached hereto as Exhibit C).

Following the amendment explanations, Attorney Bobinski took questions from the Committee members and explained the procedure followed by the Council in drafting and amending bills. Senator Hims1, in questioning the Staff Attorney, clarified that the State Fire Marshall, mentioned in Section 33, is now under the Department of Justice (in the past, the Fire Marshall was under the Commissioner of Insurance). Among other questions posed by Committee members, Senator Hims1 asked, "If this is adopted, it is not going to be rewritten again?" to which Mr. Bobinski's reply was, "This is it. I do not think these will be rewritten." Staff Attorney Bobinski stated he personally feels our codes will be the best in the country following the recodification.

With no further discussion, the hearing was closed on SB29.

ACTION ON SENATE BILL 29: Senator Olson moved SB29 AS WRITTEN, DO PASS. The motion was seconded and carried unanimously.

ANNOUNCEMENTS: Chairman Stephens then indicated the Committee would meet Thursday, January 13, 1977.

ADJOURN: With no further business being discussed, the meeting was adjourned at 11:45 A.M.



STAN STEPHENS, Chairman

R O L L C A L L

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE: Jan. 11, 1977

[illegible]

Each day, attach to minutes.

ROLL CALL

VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

45th LEGISLATIVE SESSION - 1977.

Date 1/10 Bill No. SB29 Time

NAME S:	YES	NO
LEE, Robert	✓	LEE
RASMUSSEN, Tom	✓	RASMUSSEN
OLSON, Stuart	✓	OLSON
HIMSL, Matt	✓	HIMSL
WATT, Robert	✓	WATT
ROBERTS, Joe	✓	ROBERTS
NORMAN, Bill - V. Chm.	✓	NORMAN
STEPHENS, Stan - Chairman	✓	STEPHENS

Joyce (Kelly) Allen
Secretary

STAN STEPHENS
Chairman

Motion:

(include enough information on motion—put with yellow copy of committee report.)

CHAPTER 5—RECODIFICATION OF REVISED CODES OF MONTANA, 1947

- Section
 12-501. Definitions.
 12-502. Code commissioner office created.
 12-503. Code commissioner qualifications.
 12-504. Name of recodification.
 12-505. Code commissioner duties.
 12-506. Effect of Montana Code Annotated.
 12-507. Publications.
 12-508. Copyright—ownership.
 12-509. Deposit of code—certification.
 12-510. Format as approved by legislative council.

12-501. Definitions. As used in this act:

(1) "Codes" means the Revised Codes of Montana, 1947, the pocket supplements thereto, and the replacement volumes.

→ (2) "Recodify" means to compile, arrange, rearrange, and prepare for publication. It includes without changing the meaning, effect, or intent of any law:

(a) adopting a uniform system of punctuation, capitalization, and numbering;

(b) substituting the appropriate code section reference for reference to a section of an "act";

(c) substituting calendar date for "effective date";

(d) creating new titles, chapters, sections, or other divisions of the code.

12-504. Name of recodification. The recodification shall be known as the "Montana Code Annotated."

History: En. 12-504 by Sec. 4, Ch. 419, L. 1975.

12-505. Code commissioner duties. Subject to the general supervision and policy of the legislative council the code commissioner shall:

(1) prior to January 1, 1979, recodify all the laws of a general and permanent nature appearing in the codes and session laws and prepare the same for publication;

(2) prior to January 1, 1979, prepare and submit to the legislature a report which is certified by the commissioner as the "Official Report of the Montana Code Commissioner" together with a bill enacting the Montana Code Annotated. A copy of the report and bill shall be deposited with the secretary of state. The report shall explain and indicate in tabular or other form, all changes made during recodification, other than punctuation and capitalization, to clearly indicate the character of each change;

(3) prior to November 1, 1976, and prior to November 1 of each year thereafter, prepare and submit to the legislative council a report, in tabular or other form, indicating the commissioner's recommendations for legislation which will:

- * (a) eliminate archaic or outdated laws;
- * (b) eliminate obsolete or redundant wording of laws;
- * (c) eliminate any duplications in law and any laws repealed directly or by implication;
- * (d) clarify existing laws;
- * (e) correct errors and inconsistencies within the laws;

what
recodify
means

Major
purpose
of
Senate
Bill 29

~~*~~(f) correct inaccurate references to titles of officers or agencies or to other statutes as may be necessary to obtain consistency with current law;

(4) cause to be prepared for inclusion, at the end of each section of the statutes, the following material:

(a) reference to the statutory history of the section;

(b) annotations of state and federal court decisions relating to the subject matter of the section; and

(c) such editorial notes, cross references, and other matter as the commissioner considers desirable or advantageous;

(5) cause to be prepared for publication with the Montana Codes Annotated:

(a) Magna Charta;

(b) Declaration of Independence;

(c) Constitution of the United States of America and amendments thereto;

(d) Acts of Congress relating to the authentication of laws and records;

(e) Organic Act of the Territory of Montana;

(f) The Enabling Act;

(g) The 1889 and 1972 constitutions of the state of Montana and any amendments thereto;

(h) Ordinances relating to federal relations and elections;

(i) Rules of civil, criminal, appellate procedure and such other rules of procedure as the Montana supreme court may adopt; and

(j) A complete subject index, popular name index, comparative disposition tables or cross reference indices relating sections of the Montana Code Annotated to prior compilations and session laws.

(6) after publication of the Montana Code Annotated:

(a) annotate, arrange, assign catchlines and code section numbers to and prepare for publication all laws of a general and permanent nature enacted at each legislative session;

(b) continue to codify, index, arrange, rearrange divisions and generally update the Montana Code Annotated to maintain an orderly and logical arrangement of the laws in order to avoid future need for bulk revision;

(c) prepare and submit to each legislature a report which is certified as the "Official Report of the Montana Code Commissioner—(year)" which indicates in tabular or other forms all changes made during the continuous recodification, other than punctuation and capitalization, to clearly indicate the character of each change made since the first publication of the Montana Code Annotated;

(7) from time to time confer with members of the judiciary and the state bar relative to recodification procedures.

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FRANCIS BARDANOUVE
OSCAR KVAALEN
PAT MC KITTRICK

ROSE WEBER
EXECUTIVE DIRECTOR

PAMELA DUENSING
ADMINISTRATIVE ASSISTANT

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SUPERVISOR, ALTER SYSTEM



Montana Legislative Council

State Capitol

Helena, 59601

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CODE COMMISSIONER

ROBERT PERSON
DIRECTOR, RESEARCH

LC 0054

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 29

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HEALTH
AND SAFETY.

(This summary does not include discussion of routine form
or grammatical changes.)

Section 1. 27-706. "Such" was changed to "the article"
in the last sentence of subsection (3) [former subsection (c)]
for clarification.

Section 2. 27-707. Because recodification will split
this section, it was necessary to change "any such attorney"
to "a state or county attorney".

Section 3. 27-722. "Or" was added and "enter" was deleted
in the first sentence for grammatical reasons and for clarification.

Section 4. 27-805. "The" act was changed to "this" act
for grammatical reasons and for clarification.

Section 5. 50-480.7. The internal reference to "50-480.2"
was changed to "50-480.3" for clarification and to correct
an apparent misprint.

Section 6. 54-301. "The following definitions apply"
was added in order to make the lead-in phrase a complete
thought, thereby correcting certain punctuation problems in
this long definitional section. "Of" was changed to "or" in
subsection (6) for clarification and to correct an apparent
misprint. "Or" was added in subsection (22) for grammatical
reasons.

Section 7. 54-319. "Or" was changed to "of" in sub-
section (1), and the internal reference to "54-317" was
changed to "54-318" in subsection (2) for clarification and
to correct an apparent misprint.

Section 8. 69-1401. "And" was changed to "of" for grammatical reasons.

Section 9. 69-1504. "The" and "a" were added throughout subsection (3) [former subsection (2)] for grammatical reasons.

Section 10. 69-1508. "Been" was added for grammatical reasons.

Section 11. 69-1509. Grammatical changes were made throughout subsections (3), (4), and (5) [formerly subsections (3) and (4)].

Section 12. 69-1802. "Defined below" was added to the lead-in phrase of this section for clarification.

Section 13. 69-1808. This section was amended to add language to subsection (5) that was apparently left out. The added language is necessary for clarification.

Section 14. 69-1923. "Constructed as hereinafter provided" was changed to "constructed as provided in 69-1907" in the first sentence for clarification. The internal reference to "69-1924" was changed to "69-1907" because 69-1924 is repealed by section 39 of this bill, and because 69-1907 provides for the construction and location of magazines (as had 69-1924). Other changes were grammatical or for purposes of style.

Section 15. 69-1925. The first sentence was deleted as unnecessary and in conflict with other, more modern sections. This section was originally enacted to compliment 69-1924, which will be repealed by section 38 of this bill.

Section 16. 69-2111. "The department of justice" was changed to "the state fire marshal" in subsections (4) and (5) for clarification and to aid recodification. This is also in line with the amendment to 82-1201 in section 32 of this bill.

Section 17. 69-2701. "Possess", added in the first sentence, is from the language deleted from 69-2702 by section 18 of this bill. "Of" was changed to "or" in subsection (1) [former subsection b.] for clarification and to correct an apparent misprint. "In subsection (4) of this section" was added in subsections (3), (5), and (6) for clarification and to aid recodification. All other changes were for grammatical reasons.

Section 18. 69-2702. Language through "provided that" was deleted in the first sentence as unnecessary duplicating language (69-2701 contains similar language having the same effect). "Hereunder shall be" was changed to "under this section is" in the second to last sentence for clarification, for grammatical reasons, and to aid recodification. All other changes were for grammatical reasons.

Section 19. 69-4428.1. "The act shall be" was changed to "this section is" in subsection (2) for clarification, for grammatical reasons, and to aid recodification. "This act" was changed to "this section" in subsection (3) for clarification and to aid recodification.

Section 20. 69-4504. "Who are" was added to subsection (1) for grammatical reasons.

Section 21. 69-4508. "It is financed by one of the following methods" was added to subsection (2)(c) to correct certain punctuation problems and to aid in recodification. "The city or cities" was changed to "each participating city" throughout the section, and "the county" was changed to "each county" in subsection (2)(d) for clarification.

Section 22. 69-5201. "The following definitions apply" was added to the lead-in phrase to correct certain punctuation problems and to aid recodification. "Alcohol" was changed to "alcoholism" in subsection (2) for clarification. "May be" was changed to "includes the facilities" in subsection (8)(a) [former subsection (2)(e)] for clarification and for grammatical reasons.

Section 23. 69-5207. "A" was added in the lead-in phrase for grammatical reasons. "And denial of a license on that basis is qualified by 66-4003" was added to clarify that denial of a license on the basis of a felony conviction is qualified by 66-4003.

Section 24. 69-5502. "The following definitions apply" was added to the lead-in phrase to correct certain punctuation problems and to aid recodification. "And" was changed to "with" for clarification.

Section 25. 69-6701. "The" was added for grammatical reasons.

Section 26. 69-6704. "The" was added for grammatical reasons.

Section 27. 69-7102. "The following definitions apply" was added to the lead-in phrase to correct certain punctuation problems and to aid recodification. Subsections were added to "69-7103" in subsections (13) [former subsection (14)], (13)(a)(vi), (14)(c) [former subsection (15)(c)], and (18) [former subsection (19)] for clarification and to aid recodification (69-7103 will be substantially split up in recodification). "Or" was changed to "of" in subsection (13)(a)(ix) and "are" was changed to "is" in subsection (13)(b) for clarification and grammatical reasons.

Section 28. 69-7103. The internal reference to "69-7102(14)(a)" was changed to "69-7102(13)(a)" because of certain amendments to 69-7102 in section 26 of this bill.

Section 29. 69-7105. "The act" was changed to "this act" in subsection (2)(b) for clarification and grammatical reasons. The language in subsection (1) was amended to bring this penalty subsection into conformity with language used in Montana's Criminal Code of 1973.

Section 30. 69-7107. "Or" was changed to "of" in subsection (2) for clarification, for grammatical reasons, and to correct an apparent misprint.

Section 31. 69-7108. Because recodification will split this section, it was necessary to change "any such attorney" to "a county attorney". "And either in person" was added to clarify that a petitioner can present his views either in person or by attorney.

Section 32. 69-7110. "Will" was changed to "shall" in subsection (3) for clarification. "As" was changed to "under" in the last section for clarification.

X Section 33. 82-1201. "An office of state fire marshal" was changed to "a fire marshal bureau in the department of justice" and "commissioner of insurance" was changed to "attorney general" to bring this section into conformity with current law. "The chief of the fire marshal bureau is the state fire marshal" was added to aid recodification and to aid in clarifying many sections in the Code referring to the state fire marshal. Subsection (4) was deleted as unnecessary (there is currently no fire prevention advisory commission and the fire marshal is now under the attorney general, not the commissioner of insurance).

Section 34. 82-1202. "The executive secretary of the university system" was changed to the "commissioner of higher education" in subsection (1)(b) [former subsection (2)] to bring this section into conformity with current law. Former subsection (5) was deleted as unnecessary because 82-1202.1(2), dealing with rules promulgated by the fire marshal, has the same language having the same effect. All other changes were made for purposes of clarification and for grammatical reasons.

Section 35. 82-1215. Because this section will be substantially split up in recodification, it was necessary to amend it throughout for purposes of clarification. All amendments, except a few grammatical changes, are necessary for purposes of recodification.

Section 36. 82-1226. This section was amended to correct certain punctuation problems and to aid recodification.

Section 37. 82-1229. References to "the commissioner of insurance" were changed to "the attorney general" to bring this section into conformity with current law.

Section 38. 94-5-614. "The following definitions apply" was added to the lead-in phrase to correct certain punctuation problems and to aid recodification.

Section 39. Repealer. Sections 41-2101 through 41-2108, relating to the Labor Safety Study Commission, were repealed as unnecessary since this commission has been abolished by the legislature. Section 69-1924, relating to the construction and location of magazines for the storage of explosives, was repealed as outdated, unnecessary, and in conflict with other, more modern sections of the Code. Section 82-1232, relating to the powers of the commissioner of insurance with respect to the powers granted to the state fire marshal, was repealed as unnecessary and in conflict with current law -- the commissioner of insurance no longer is vested with these powers.

STANDING COMMITTEE REPORT

JANUARY 12

19 77

MR. PRESIDENT

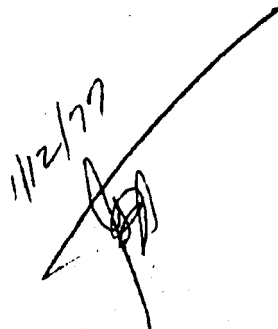
We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration SENATE Bill No. 29

Respectfully report as follows: That SENATE Bill No. 29

DO PASS

~~XXXXXX~~

11/2/77


PUBLIC HEALTH WELFARE & COMMITTEE
SAFETY
45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 227	RELATING TO THE PROCEDURE FOR ISSUANCE OF SUBSTITUTE BIRTH CERTIFICATES BY THE DEPT. OF HEALTH.	1/18/77	Kimble, by request	1/27/77	DO PASS	2/1/77
HB 236	RE: DEPT. OF HEALTH; LAB FEE ASSESSMENTS, AUTHORIZING DEPT. TO BRING ACTION UPON VIOLATION OF PUB. HEALTH LAWS, RULES OR ORDERS.	1/19/77	Harper, by request Health Dept.	2/1/77	DO PASS	2/1/77
HB 255	REQUIRING STATE BUILDING CODE TO SET STANDARDS ASSURING ACCESSIBILITY BY HANDICAPPED & ELDERLY..	1/19/77	Cooney, Palmer, et al	HEARD BY PROBLEMS OF THE ELDERLY SUBCOMM.	TABLED 2/22/77	
HB 257	PROVIDING FOR LICENSURE OF SOCIAL WORKERS..	1/19/77	Dussault, Ellis, et al	1/27/77	Subcomm. 2/1/77 DO NOT PASS	2/10/77
SB 29	REVISING & CLARIFYING LAWS RELATING TO HEALTH & SAFETY	1/19/77	Sen. Blaylock	2/8/77	BE CONCURRED IN	2/15/77
HB 285	TO GENERALLY REVISE THE CLEAN AIR ACT OF MONTANA	1/20/77	Harper	2/3/77	DO NOT PASS AS AMENDED	2/8/77

in the outcome of the bill because (1) the more the workshop activities the more possibility of each client gaining experience that may lead to competitive employment and (2) it is much better to fund client programs through earnings than through subsidy. Representative Porter spoke up in support of this bill. There were no opponents. Questions were asked. It was pointed out that this bill did not require a fiscal note, as the state already was purchasing these services; and why not give these people a job instead of out-of-state organizations? Luther Glenn, Department of Administration, expressed their support of the concept. The hearing was closed.

The committee then went into executive session to consider the following bills: Representative Holmes moved that HOUSE BILL 298 DO PASS AS AMENDED per the sponsor's amendments. Representative Porter seconded the motion; motion carried unanimously.

HOUSE BILL 285. Representative Harper presented amendments to the committee which cleared up several problems the opponents had with the bill. Representative Kimble moved that AS SO AMENDED DO PASS; Representative Holmes seconded it. Representative Gould made a substitute motion that the bill DO NOT PASS. Discussion followed.

Representative Gould feels that the legislature should be doing everything possible to promote the good quality of air, water, etc., and we should leave it up to these people to take punitive actions. He feels that it is one of the worst bills the Department of Health has ever proposed. Representative Porter felt that the Legislature should encourage people to put pollution control devices on their equipment, and not penalize them. Representative Harper stressed that all the bill is saying is that we need to clarify the law, because it is unclear now; It is conducive to conflict and argument. Representative Holmes made a motion for all motions pending that the bill be amended; motion carried unanimously. The motion of DO NOT PASS AS AMENDED was then voted on - motion carried; see roll call vote. Representative Cooney brought up the possibility of moving this bill to Taxation and it was discussed.

SENATE BILL 29 was heard at this point. Mr. John Bobinski spoke on behalf of the sponsor, Senator Blaylock. He assured the committee that there were no substantive changes made in the bill, and mainly it was a house cleaning recodification measure. There were no further proponents nor were there any opponents to this bill. The hearing was closed.

The committee then went back into executive session. It was moved and seconded that HOUSE BILL 387 DO PASS. Representative Ryan made a substitute motion that it DO NOT PASS. Discussion followed. The substitute motion failed; see roll call vote. Further discussion took place. The original motion of DO PASS was then voted on; see roll call vote. It also failed.

A subcommittee was assigned to consider HOUSE BILL 461. Representatives Feda, Cox, Vinger, Kenny, Holmes and Menahan shall form the subcommittee.

It was announced that HOUSE JOINT RESOLUTION 38 will be heard at the next meeting, on Thursday, February 10, 1977.

~~The chairman then received unanimous committee approval to have~~

February 15, 1977

The opponents to HB 594 then spoke. Earl Hanson, Blue Cross of Montana, was first. Mental illness, etc. are covered under Blue Cross policies at present. However, usually only bed care treatment is covered. Also, this bill mandates coverage with no thought given to the possible rate function it might serve. It doesn't take very many custodial patients to make rates go sky-high. He suggested that an interim committee study these problems. Dr. Duncan Burford, M.D., President of the Montana Psychiatric Association spoke next. The Psychiatric Assoc. had considered presenting a similar bill, but felt they were not ready at this time. He also outlined several areas the bill did not cover; see witness statement. Alan F. Cain, Montana Physicians Service, stressed the cost factor in his presentation. This type of coverage is presently available. The present trend is to cut back on services so that costs to the consumers can go down. Josephine Driscoll spoke then, first as a representative of the Insurance Dept. and secondly on behalf of herself; see prepared statement. Harold Paulsen, American Council of Life Insurance, stated that the industry is opposed to this type of mandating. Mike Young, Administrator of the Department of Administration, spoke; he was also opposed to the cost factor.

Rep. South then closed. He felt it was not fair to talk about the cost of the insurance premium alone. The problem with leaving this kind of coverage up to the groups who negotiate, is that no one ever thinks that he is going to become mentally ill, or an alcoholic, etc. At present, middle-class alcoholics are not treated because they don't have the money to pay for care. Questions were then asked. The hearing was then closed.

HOUSE BILL 709 was then heard. The chairman, Rep. Menahan, turned the meeting over to Vice-Chairman Holmes in order to present this bill, which he was chief sponsor of. Under present law the amount of insurance coverage is limited and shall not exceed the amount in the schedule. The carriers are willing to go above the amounts. Josephine Driscoll spoke up in support of the bill. She felt the bill should be amended so that the entire section of the law would not be repealed, but only the portion concerning limits. Harold Paulsen, American Council of Life Insurance, spoke. He would go along with striking of the entire section of the law. There were no opponents to HB 709. The hearing was closed.

The committee then went into executive session. Discussion took place concerning the Problems of the Elderly Subcommittee. It was questioned whether they had the right to make their recommendations directly to the floor of the House or whether they should report to this committee, who would then in turn report to the floor. It was decided to discuss the matter with the Speaker of the House, Rep. Driscoll.

SENATE BILL 29 was then acted on. Rep. Holmes moved that it BE CONCURRED IN. Motion carried unanimously. Rep. Menahan agreed to carry the bill.

SENATE BILL NO. 29
INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HEALTH AND SAFETY; AMENDING SECTIONS 27-706, 27-707, 27-722, 27-805, 50-480.7, 54-301, 54-319, 69-1401, 69-1504, 69-1508, 69-1509, 69-1802, 69-1808, 69-1923, 69-1925, 69-2111, 69-2701, 69-2702, 69-4428.1, 69-4504, 69-4508, 69-5201, 69-5207, 69-5502, 69-6701, 69-6704, 69-7102, 69-7103, 69-7105, 69-7107, 69-7108, 69-7110, 82-1201, 82-1202, 82-1215, 82-1226, 82-1229, AND 94-5-615, R.C.M. 1947; AND REPEALING SECTIONS 41-2101 THROUGH 41-2108, 69-1924, AND 82-1232, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-706, R.C.M. 1947, is amended to read as follows:

"27-706. Detention or embargo of adulterated or misbranded articles -- condemnation proceedings -- immediate abatement of nuisances. ~~(a) (1) Whenever a duly authorized~~ If an agent of the department finds or has probable cause to believe that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent within the meaning of this act, he shall affix to each the article a tag or other appropriate marking, giving

notice that ~~such the~~ the article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed and warning all persons not to remove or dispose of ~~such the~~ the article by sale or otherwise until permission for removal or disposal is given by ~~such the~~ the agent or the court. It ~~shall~~ be is unlawful for ~~any~~ a person to remove or dispose of ~~such~~ a detained or embargoed article by sale or otherwise without ~~such~~ permission.

~~(b) (2)~~ When If an article detained or embargoed under subsection ~~(a) (1)~~ has been is found by ~~such the~~ the agent to be adulterated or misbranded, he shall petition the justice of peace, ~~police~~ city judge, or district court in whose jurisdiction the article is detained or embargoed for a ~~libel~~ an order for condemnation of ~~such the~~ the article. ~~When~~ such If the agent ~~has found~~ finds that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

~~(c) (3)~~ If the court finds that a detained or embargoed article is adulterated or misbranded, ~~such the~~ the article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of ~~such the~~ the agent, and all court costs and fees and storage and other proper expenses shall be taxed against the claimant of ~~such the~~ the article or his agent, ~~provided, that when~~ If the adulteration or misbranding can be corrected by proper

labeling or processing of the article, the court, after entry of the decree and after ~~each the~~ costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that ~~each the~~ article ~~shall will~~ be so labeled or processed, may by order direct that ~~each the~~ article be delivered to the claimant thereof for ~~each the~~ labeling or processing under the supervision of an agent of the department. The expense of ~~each the~~ supervision shall be paid by claimant. ~~Each The article~~ shall be returned to the claimant ~~of the article~~ on the representation to the court by the department that the article is no longer in violation of this act, and that the expenses of ~~each the~~ supervision have been paid.

~~(d)-(4)~~ Whenever the department or any of its authorized agents ~~shall~~ find in any room, building, vehicle of transportation, or other structure, any meat, sea food, poultry, vegetable, fruit, or other perishable ~~articles~~ article which ~~are is~~ unsound, or ~~contains contains~~ any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the ~~same article~~ being hereby declared to be a nuisance, the department or its authorized agent, shall ~~forthwith~~ immediately condemn or destroy the ~~same article~~ or in any other manner render the ~~same article~~ unsalable as human food."

Section 2. Section 27-707, R.C.M. 1947, is amended to read as follows:

"27-707. Proceedings to be instituted and prosecuted without delay — defendant's right to be heard by department. ~~It shall be the duty of each~~ Each state attorney or county attorney, to whom the department reports ~~any a~~ violation of this act, ~~to shall~~ cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before ~~any a~~ violation of this act is reported to ~~any each a~~ state or county attorney for the institution of a criminal proceeding, the person against whom ~~each the~~ proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the department or its designated agent, either orally or in writing, ~~and~~ either in person or by attorney, with regard to ~~each the~~ contemplated proceeding."

Section 3. Section 27-722, R.C.M. 1947, is amended to read as follows:

"27-722. ~~Department's access to buildings and premises examination of samples~~ Inspections and taking of samples authorized. (1) The department or its authorized agents ~~shall~~ have free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices, or cosmetics are manufactured, processed, packed,

1 or held for introduction into commerce, or to enter any
2 vehicle being used to transport or hold such the foods,
3 drugs, devices, or cosmetics in commerce, for the purpose:

4 (a) of inspecting such the factory, warehouse,
5 establishment, or vehicle to determine if any of the
6 provisions of this act are being violated; and

7 (b) ~~to secure~~ of securing samples or specimens of any
8 food, drug, device, or cosmetic after paying or offering to
9 pay for such the sample.

10 (2) ~~It shall be the duty of the~~ The department to
11 shall make or cause to be made examinations of samples
12 secured under the provisions of this section to determine
13 whether or not any provision of this act is being violated."

14 Section 4. Section 27-805, R.C.M. 1947, is amended to
15 read as follows:

16 "27-805. Penalties for violations. Any A person who
17 violates any of the provisions of the this act or the
18 orders, or rules or regulations promulgated by the
19 department under authority thereof, of it shall, upon
20 conviction, thereof be subjected to fine fined for each and
21 every offense, in a sum not exceeding one hundred dollars no
22 more than {\$100} or to imprisonment be imprisoned for any
23 term not to exceed thirty-{30} days."

24 Section 5. Section 50-480.7, R.C.M. 1947, is amended
25 to read as follows:

1 "50-480.7. Order — no violation — abatement. An
2 operator notified of an order made under ~~section 50-480.2~~
3 50-480.3 may apply to the division for a hearing or revision
4 of the order. If the division finds that there was no
5 violation, it shall make an order rescinding the order under
6 review. If the division finds that there was a violation,
7 but the violation has since been abated, it shall make an
8 order rescinding the order under review. If the division
9 finds that the violation was not totally abated, it shall
10 make an order consistent with its findings."

11 Section 6. Section 54-301, R.C.M. 1947, is amended to
12 read as follows:

13 "54-301. Definitions. As used in this act the
14 following definitions apply:

15 (1) "Administer" means the direct application of a
16 dangerous drug, whether by injection, inhalation, ingestion,
17 or any other means, to the body of a patient or research
18 subject by:

19 (a) a practitioner (or by his authorized agent), or

20 (b) the patient or research subject at the direction
21 and in the presence of the practitioner.

22 (2) "Agent" means an authorized person who acts on
23 behalf of or at the direction of a manufacturer,
24 distributor, or dispenser. It does not include a common or
25 contract carrier, public warehouseman, or employee of the

1 carrier or warehouseman.

2 (3) "Board" means the board of pharmacists, provided

3 for in ~~section~~ 82A-1602.21.

4 (4) "Bureau" means the bureau of narcotics and

5 dangerous drugs, United States department of justice, or its

6 successor agency.

7 (5) "Dangerous drug" means a drug, substance, or

8 immediate precursor in Schedules I through V hereinafter set

9 forth.

10 (6) "Counterfeit substance" means a dangerous drug

11 which, or the container or labeling of which, without

12 authorization, bears the trademark, trade name, or other

13 identifying mark, imprint, number, ~~of~~ or device, or any

14 likeness thereof, of a manufacturer, distributor, or

15 dispenser other than the person who in fact manufactured,

16 distributed, or dispensed the drug.

17 (7) "Deliver" or "delivery" means the actual,

18 constructive, or attempted transfer from one person to

19 another of a dangerous drug, whether or not there is an

20 agency relationship.

21 (8) "Department" means the department of professional

22 and occupational licensing, provided for in Title 82A,

23 chapter 16.

24 (9) "Dispense" means to deliver a dangerous drug to an

25 ultimate user or research subject by or pursuant to the

1 lawful order of a practitioner, including the prescribing,

2 administering, packaging, labeling, or compounding necessary

3 to prepare the drug for that delivery.

4 (10) "Dispenser" means a practitioner who dispenses.

5 (11) "Distribute" means to deliver other than by

6 administering or dispensing a dangerous drug.

7 (12) "Distributor" means a person who distributes.

8 (13) "Drug" means:

9 (a) ~~substances~~ a substance recognized as ~~drugs~~ a drug

10 in the official United States pharmacopoeia, official

11 homeopathic pharmacopoeia of the United States, or official

12 national formulary, or any supplement to any of them;

13 (b) ~~substances~~ a substance intended for use in the

14 diagnosis, cure, mitigation, treatment, or prevention of

15 disease in man or animals;

16 (c) ~~substances~~ a substance (other than food) intended

17 to affect the structure or any function of the body of man

18 or animals; and

19 (d) ~~substances~~ a substance intended for use as a

20 component of any article specified in ~~clause~~ (a), (b), or

21 (c) of this subsection. It does not include ~~devices~~ a device

22 or ~~their~~ its components, parts, or accessories.

23 (14) "Immediate precursor" means a substance which the

24 board of pharmacists ~~has found to be~~ finds and by rule

25 designates as being the principal compound commonly used or

1 produced primarily for use, and which is an immediate
2 chemical intermediary used or likely to be used in the
3 manufacture of a dangerous drug, the control of which is
4 necessary to prevent, curtail, or limit manufacture.

5 (15) "Manufacture" means the production, preparation,
6 propagation, compounding, conversion, or processing of a
7 dangerous drug, either directly or indirectly by extraction
8 from substances of natural origin, ~~or~~ independently by means
9 of chemical synthesis, or by a combination of extraction and
10 chemical synthesis, and includes any packaging or
11 repackaging of the drug or labeling or relabeling of its
12 container, ~~except that this~~ The term does not include the
13 preparation or compounding of a dangerous drug by an
14 individual for his own use or the preparation, compounding,
15 packaging, or labeling of a dangerous drug:

16 (a) by a practitioner as an incident to his
17 administering or dispensing of a dangerous drug in the
18 course of his professional practice, or

19 (b) by a practitioner, or by his authorized agent
20 under his supervision, for the purpose of, or as an incident
21 to, research, teaching, or chemical analysis and not for
22 sale.

23 (16) "Marijuana (marihuana)" means all plant material
24 from the genus cannabis containing tetrahydrocannabinol
25 (THC) or seeds of the genus capable of germination.

1 (17) "Narcotic drug" means any of the following,
2 whether produced directly or indirectly by extraction from
3 substances of vegetable origin, ~~or~~ independently by means of
4 chemical synthesis, or by a combination of extraction and
5 chemical synthesis:

6 (a) opium and opiate, and any salt, compound,
7 derivative, or preparation of opium or opiate;

8 (b) any salt, compound, isomer, derivative, or
9 preparation thereof which is chemically equivalent or
10 identical with any of the drugs referred to in ~~clause (a)~~
11 17(a) of this section, but not including the isoquinoline
12 alkaloids, of opium;

13 (c) opium poppy and poppy straw; or

14 (d) coca leaves and any salt, compound, derivative, or
15 preparation of coca leaves, and any salt, compound, isomer,
16 derivative, or preparation thereof which is chemically
17 equivalent or identical with any of these drugs, but not
18 including decocainized coca leaves or extractions of coca
19 leaves which do not contain cocaine or ecgonine.

20 (18) "Opiate" means any drug having an
21 addiction-forming or addiction-sustaining liability similar
22 to morphine or being capable of conversion into a drug
23 having addiction-forming or addiction-sustaining liability.
24 It does not include, unless specifically designated as a
25 dangerous drug under ~~section 54-302 of this act~~, the

1 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
2 salts (dextromethorphan). It does include its racemic and
3 levorotatory forms.

4 (19) "Opium poppy" means the plant of the species
5 *papaver somniferum* L., except its seeds.

6 (20) "Person" means an individual, corporation,
7 government or governmental subdivision or agency, business
8 trust, estate, trust, partnership, ~~or~~ association, or any
9 other legal entity.

10 (21) "Poppy straw" means all parts, except the seeds,
11 of the opium poppy, after mowing.

12 (22) "Practitioner" means:

13 (a) a physician, dentist, veterinarian, scientific
14 investigator, or other person licensed, registered, or
15 otherwise permitted to distribute, dispense, or conduct
16 research with respect to or to administer a dangerous drug
17 in the course of professional practice or research in this
18 state; and

19 (b) a pharmacy or other institution licensed,
20 registered, or otherwise permitted to distribute, dispense,
21 or conduct research with respect to or to administer a
22 dangerous drug in the course of professional practice or
23 research in this state.

24 (23) "Production" includes the manufacture, planting,
25 cultivation, growing, or harvesting of a substance or drug

1 regulated under the provisions of this act.

2 (24) "State," when applied to a part of the United
3 States, includes any state, district, commonwealth,
4 territory, insular possession thereof, and any area subject
5 to the legal authority of the United States of America.

6 (25) "Ultimate user" means a person who lawfully
7 possesses a dangerous drug for his own use or for the use of
8 a member of his household or for administering to an animal
9 owned by him or by a member of his household.

10 (26) The term "prescription" ~~shall be~~ is given the
11 meaning it has in ~~section 66-1502(13), R.C.M. 1947.~~

12 Section 7. Section 54-319, R.C.M. 1947, is amended to
13 read as follows:

14 "54-319. Procedure for denial, suspension, revocation,
15 or refusal to renew registration. (1) Before denying,
16 suspending, or revoking a registration, or refusing a
17 renewal of registration, the board shall ~~cause to be served~~
18 serve upon the applicant or registrant an order to show
19 cause why registration should not be denied, revoked, or
20 suspended, or why the renewal should not be refused. The
21 order to show cause shall contain a statement of the basis
22 therefor and shall require the applicant or registrant to
23 appear before the board at a time and place not less than
24 ~~thirty~~ (30) days after the date of service of the order, but
25 in the case of a denial ~~or~~ of renewal of registration, the

1 show cause order shall be served not later than ~~thirty~~ {30}
2 days before the expiration of the registration. These
3 proceedings shall be conducted without regard to any
4 criminal prosecution or other proceeding. Proceedings to
5 refuse renewal of registration shall do not abate the
6 existing registration, which ~~shall remain~~ remains in effect
7 pending the outcome of the administrative hearing.

8 (2) The board may suspend, without an order to show
9 cause, any registration simultaneously with the institution
10 of proceedings under ~~section 54-247~~ 54-318 or ~~where~~ whenever
11 renewal of registration is refused, if it finds that there
12 is an imminent danger to the public health or safety which
13 warrants such action. The suspension ~~shall continue~~
14 continues in effect until the conclusion of the proceedings,
15 including judicial review thereof, unless sooner withdrawn
16 by the board or dissolved by a court of competent
17 jurisdiction."

18 Section 8. Section 69-1401, R.C.M. 1947, is amended to
19 read as follows:

20 "69-1401. Construction of scaffolds. All scaffolds
21 erected in this state for use in the erection, repair,
22 alteration, or removal of buildings shall be well and safely
23 supported, ~~and of~~ of sufficient width, and properly secured, so
24 as to ensure the safety of persons working ~~thereon or there~~
25 or passing ~~thereunder, under them~~ under them or by ~~the same, then~~ them and

1 to prevent ~~the them from~~ falling thereon, or ~~of~~ to prevent
2 any material that may be used, placed, or deposited ~~thereon~~
3 on them from falling."

4 Section 9. Section 69-1504, R.C.M. 1947, is amended to
5 read as follows:

6 "69-1504. Inspection of boilers — further
7 requirements in making inspection. (1) The inspector must
8 also satisfy himself that:

9 (a) the safety valves are of suitable relieving
10 capacity ratings, sufficient in number and area, and
11 properly arranged, and ~~that the safety valves~~ are properly
12 adjusted so as not to allow ~~as a~~ a greater pressure in ~~the~~
13 ~~boilers~~ a boiler than the amount prescribed by the
14 inspection certificate;

15 (b) ~~that~~ there are a sufficient number of gauge cocks
16 properly inserted to indicate the amount of water, and
17 suitable gauges that will correctly record the pressure of
18 steam; and

19 (c) adequate and certain provisions for an ample
20 supply of water to feed the ~~boilers boiler~~ boiler at all times, and
21 ~~that~~ suitable means for blowing out are provided, so as to
22 thoroughly remove mud and sediment from all parts of the
23 ~~boilers boiler~~ boiler when ~~they are it is~~ it is under pressure of steam,

24 (2) ~~and any~~ a renter, user, or owner of a boiler, or
25 ~~any a person or persons who tamper~~ tampers with the safety

1 valve to allow the boiler to carry greater pressure than is
2 allowed by the inspection certificate, ~~shall be deemed~~ is
3 guilty of a misdemeanor.

4 ~~(2), (3)~~ Where if a boiler is constructed with lap
5 horizontal seams on the boiler, dome, or drum, a factor of
6 ~~four and one-half~~ 4 1/2 shall be used in determining the
7 safe working pressure allowed on ~~such~~ the boiler. ~~But where~~
8 ~~the boilers are~~ If a boiler is constructed with ~~butt strap~~
9 ~~butt strap~~ horizontal seams, a factor of four ~~may~~ be used in
10 determining ~~such~~ the safe working pressure. If a boiler
11 rests on a side wall on lugs, ~~or~~ is hung by I-beams, or is
12 in any way set up so that the weight of the boiler is
13 pulling against the horizontal seam of rivets, a factor of
14 five must be used ~~to determine~~ in determining the safe
15 working pressure ~~allowed on boiler~~. ~~Where~~ If the horizontal
16 lap seams of a boiler are exposed to the fire, a factor of
17 five must be used ~~to determine~~ in determining the safe
18 working pressure ~~to be allowed on such boiler~~. On new stay
19 bolts, ~~if new, seven thousand five hundred~~ 7,500 pounds
20 pressure per square inch ~~shall be~~ is allowed. If ~~such~~ the
21 stay bolts are corroded or defective, the inspector must
22 determine the pressure to be allowed on ~~same~~ them. On braces
23 made of solid material, ~~eight thousand~~ 8,000 pounds pressure
24 per square inch ~~shall be~~ is allowed. On welded braces or
25 braces with only one ~~cross-foot~~ crowfoot, ~~six thousand~~ 6,000

1 pounds pressure per square inch ~~shall be~~ is allowed. No cast
2 iron ~~shall~~ may be used in the construction or reinforcements
3 of ~~any~~ a boiler ~~where~~ if the pressure allowed on ~~said~~ the
4 boiler is more than ~~one hundred~~ 100 pounds per square inch."

5 Section 10. Section 69-1508, R.C.M. 1947, is amended
6 to read as follows:

7 "69-1508. Licenses required — penalty for operating
8 without license. No person ~~shall~~ may be granted a license to
9 operate steam or water boilers and steam machinery under the
10 provisions of this article, who has not met the
11 qualifications for licensing, ~~and been~~ found to be competent
12 by examination to perform the duties of an engineer, and
13 received a license so to act. ~~Any~~ A person who operates ~~any~~
14 a boiler or steam engine without first obtaining a license
15 is guilty of a misdemeanor, and, upon conviction, shall be
16 ~~punished by a fine of not~~ fined no less than ~~fifty dollars~~
17 \$50 ~~or~~ or more than ~~one hundred dollars~~, \$100 ~~or~~
18 imprisonment ~~be~~ imprisoned in the county jail for ~~not more~~
19 ~~than sixty~~ any term not to exceed 60 days, or by both ~~such~~
20 ~~fine and imprisonment.~~"

21 Section 11. Section 69-1509, R.C.M. 1947, is amended
22 to read as follows:

23 "69-1509. Classification and licensing of engineers.
24 (1) Engineers entrusted with the operation, care, and
25 management of steam or water boilers and steam machinery, as

specified in the preceding section, ~~must be~~ are divided into four classes, namely: first-class engineers, second-class engineers, third-class engineers, and low-pressure engineers.

(2) Licenses for the operation of steam or water boilers and steam machinery ~~shall be~~ are divided into four classifications in accordance with the following schedule:

(a) First-class engineers ~~shall be~~ are licensed to operate all classes, pressures, and temperatures of steam and water boilers and ~~steam-driven~~ steam-driven machinery with the exception of traction and hoisting engines.

(b) Second-class engineers ~~shall be~~ are licensed to operate steam boilers operating not in excess of ~~two hundred fifty~~ (250) pounds per square inch gauge saturated steam pressure, ~~or~~ water boilers operating not in excess of ~~three hundred seventy-five~~ (375) pounds per square inch gauge pressure and ~~four hundred fifty degrees Fahrenheit~~ (450° F) 350 degrees F temperature, and ~~steam-driven~~ steam-driven machinery not to exceed ~~one hundred~~ (100) horsepower per unit, with the exception of traction and hoisting engines.

(c) Third-class engineers ~~shall be~~ are licensed to operate steam boilers operating not in excess of ~~one hundred~~ (100) pounds per square inch gauge saturated steam pressure ~~or and~~ water boilers operating not in excess of ~~one hundred sixty~~ (160) pounds per square inch gauge pressure and ~~three~~

~~hundred fifty degrees Fahrenheit~~ (350° F) 350 degrees F temperature.

(d) Low-pressure engineers ~~shall be~~ are licensed to operate steam boilers operating not in excess of ~~fifteen~~ (15) pounds per square inch gauge pressure ~~or and~~ water boilers operating not in excess of ~~fifty~~ (50) pounds per square inch gauge pressure and ~~two hundred fifty degrees Fahrenheit~~ (250° F) 250 degrees F temperature.

(3) Each applicant for an engineer's license ~~shall must be physically and mentally capable of performing the required duties and~~ meet the following minimum requirements for the class of engineer's license for which application is being made: ~~Each applicant for any classification must be physically and mentally capable of performing the required duties for the class of engineer's license for which application is being made.~~

(a) ~~Applicants~~ An applicant for a low-pressure engineer's license ~~shall must~~ must have ~~no less than three at least~~ (3) months' full-time experience in the ~~actual~~ operation of a boiler in this classification, and successfully pass a written examination prescribed by the division, ~~and has~~ have passed his ~~eighteenth~~ (18th) birthday, and is be found to be competent to operate a boiler ~~or boilers~~ in this classification ~~shall be granted a low-pressure engineer's license.~~

(b) Applicants ~~An applicant~~ for a third-class engineer's license shall must have ~~no less than six at least~~ ~~(6)~~ months' full-time experience in the actual operation of a boiler in this classification, under an engineer holding a valid third-class or higher license, and successfully pass a written examination prescribed by the division, ~~and has have~~ passed his ~~eighteenth~~ (18th) birthday, and ~~is he~~ found to be competent to operate a boiler ~~or boilers~~ in this classification ~~shall be granted a third-class engineer's license.~~

(c) Applicants ~~An applicant~~ for a second-class engineer's license shall ~~have~~ must:

~~(1) (i) No less than two have at least (2) years'~~ full-time experience in the actual operation of a boiler and ~~steam-driven steam-driven~~ machinery in this classification, under an engineer holding a valid second-class or first-class license, and successfully pass a written examination prescribed by the division, ~~and has have~~ passed his ~~eighteenth~~ (18th) birthday, and ~~is he~~ found to be competent to operate a boiler ~~or boilers~~ and ~~steam-driven~~ steam-driven machinery in this classification ~~shall be granted a second-class engineer's license; or~~

~~(2) (ii) Hold hold~~ a valid third-class engineer's license and have ~~no less than one at least~~ (1) year's full-time experience in the actual operation of a boiler and

~~steam-driven steam-driven~~ machinery in this classification, under an engineer holding a valid second-class or first-class license, and successfully pass a written examination prescribed by the division, ~~and has have~~ passed his ~~eighteenth~~ (18th) birthday, and ~~is he~~ found to be competent to operate a boiler ~~or boilers~~ and ~~steam-driven~~ steam-driven machinery in this classification ~~shall be granted a second-class engineer's license.~~

(d) Applicants ~~An applicant~~ for a first-class engineer's license shall ~~have~~ must:

~~(1) (i) No less than three have at least (3) years'~~ full-time experience in the actual operation of a boiler and ~~steam-driven steam-driven~~ machinery in this classification, under an engineer holding a valid first-class license, and successfully pass a written examination prescribed by the division, ~~and has have~~ passed his ~~eighteenth~~ (18th) birthday, and ~~is he~~ found to be competent to operate a boiler ~~or boilers~~ and ~~steam-driven~~ steam-driven machinery in this classification, ~~shall be granted a first-class engineer's license; or~~

~~(2) (ii) Hold hold~~ a valid second-class engineer's license and have ~~no less than one at least~~ (1) year's full-time experience in the actual operation of a boiler and ~~steam-driven steam-driven~~ machinery in this classification, under an engineer holding a valid first-class license, and

1 successfully pass a written examination prescribed by the
2 division, ~~and has have~~ passed his ~~eighteenth--(18th)~~
3 birthday, and ~~is he~~ found to be competent to operate a
4 boiler ~~or-boilers~~ and ~~steam-driven steam-driven~~ machinery in
5 this classification ~~shall be granted a first-class~~
6 ~~engineer's license; or~~

7 ~~(3)(iii)~~ ~~Hold hold~~ a valid third-class engineer's
8 license and have ~~no less than two~~ at least ~~(2)~~ year's
9 full-time experience in the ~~actual~~ operation of a boiler and
10 ~~steam-driven steam-driven~~ machinery in this classification,
11 under an engineer holding a valid first-class license, and
12 successfully passed a written examination prescribed by the
13 division, ~~and has have~~ passed his ~~eighteenth--(18th)~~
14 birthday, and ~~is he~~ found to be competent to operate a
15 boiler ~~or-boilers~~ and ~~steam-driven steam-driven~~ machinery in
16 this classification ~~shall be granted a first-class~~
17 ~~engineer's license.~~

18 ~~(e)(4)~~ Allowable exceptions or variances to the
19 ~~foregoing~~ minimum requirements set out in subsection (3) of
20 this section are as follows:

21 ~~(4)(a)~~ Applicants An applicant for an engineer's
22 license in any classification holding a valid license in
23 that classification from another state ~~with having~~ licensing
24 requirements equal to or exceeding the ~~foregoing~~ minimum
25 requirements ~~for the state of Montana and set out in~~

1 subsection (3) of this section, successfully ~~pass passing~~ a
2 written examination prescribed by the division, and ~~is found~~
3 to be competent to operate a boiler ~~or-boilers~~ and ~~steam~~
4 ~~driven steam-driven~~ machinery in that classification shall
5 be granted a license in that classification.

6 ~~(2)(b)~~ Operating experience in a classification
7 accumulated in the United States military services or the
8 merchant marine service satisfactory to the division,
9 ~~accumulated in United States military services or the~~
10 ~~merchant marine service~~ may be accepted in lieu of the
11 operating experience required for licensing of engineers in
12 each of the ~~foregoing~~ license classifications.

13 ~~(3)(c)~~ Applicants with An applicant having training in
14 the ~~actual~~ operation of steam or water boilers and steam
15 machinery who ~~have has~~ been certified as having
16 satisfactorily completed a prescribed training course from a
17 recognized vocational-technical training school or center or
18 other ~~division-approved~~ division-approved institution or
19 training program in the classification for which he is
20 applying may, at the discretion of the division, be credited
21 with a maximum of ~~six-(6)~~ months' experience toward a first,
22 second, or third-class engineer's license.

23 ~~(4)(5)~~ None of the licenses named in subsections (1)
24 and (2) of this section above-named shall entitle the its
25 holder ~~thereof~~ to operate a traction engine, ~~but all~~

1 persons ~~A person~~ who are ~~is~~ entrusted with the care and
 2 management of traction engines, or boilers on wheels, ~~are is~~
 3 required to pass an examination ~~as to their~~ testing his
 4 competency to operate ~~such that~~ class of machinery and ~~to~~
 5 procure a traction license ~~to be known as a traction~~
 6 license. ~~Such A~~ traction license shall does not entitle the
 7 its holder ~~thereof~~ to operate any other class of steam
 8 machinery ~~specified in the preceding sections~~. Applicants an
 9 applicant for a traction engineer's license shall must have
 10 ~~no less than six at least~~ (6) months' full-time experience
 11 in the operation of steam traction engines, ~~and~~ successfully
 12 pass a written examination prescribed by the division, ~~and~~
 13 ~~has~~ have passed his ~~eighteenth~~ (18th) birthday, ~~and is~~ be
 14 found to be competent to operate a traction engine ~~shall be~~
 15 ~~granted a traction engineer's license~~. The division, at its
 16 discretion, may waive the experience requirement for
 17 operators of traction engines which are maintained and
 18 operated as a hobby for the restoration and show purposes of
 19 antique equipment."

20 Section 12. Section 69-1802, R.C.M. 1947, is amended
 21 to read as follows:

22 "69-1802. Application of act — definitions. Sections
 23 69-1801 through 69-1810, ~~R.C.M. 1947~~, apply to the following
 24 occupancies defined below:

25 (1) "Assembly occupancy" means the occupancy or use of

1 a building or structure or any portion thereof by a
 2 gathering of persons for civic, political, travel,
 3 religious, social, or recreational purposes, including
 4 among others,:

- 5 (a) armories;
- 6 (b) assembly halls;
- 7 (c) auditoriums;
- 8 (d) bowling alleys;
- 9 (e) broadcasting studios;
- 10 (f) chapels;
- 11 (g) churches;
- 12 (h) club rooms;
- 13 (i) dance halls;
- 14 (j) exhibition rooms;
- 15 (k) gymnasiums;
- 16 (l) lecture halls;
- 17 (m) lodge rooms;
- 18 (n) motion picture theaters;
- 19 (o) museums;
- 20 (p) night clubs;
- 21 (q) opera houses;
- 22 (r) passenger stations;
- 23 (s) pool rooms;
- 24 (t) recreation areas;
- 25 (u) restaurants;

1 (v) skating rinks;
 2 (w) television studios;
 3 (x) theaters; and
 4 (y) taverns;
 5 (2) "Business occupancy" means the occupancy or use of
 6 a building or structure or any portion thereof for the
 7 transaction of business, or the rendering or receiving of
 8 professional services, including among others;
 9 (a) banks;
 10 (b) barber shops;
 11 (c) beauty parlors;
 12 (d) office buildings;
 13 (e) radio stations;
 14 (f) telephone exchanges; and
 15 (g) television stations;
 16 (3) "Educational occupancy" means the occupancy or use
 17 of a building or structure or any portion thereof by persons
 18 assembled for the purpose of learning or of receiving
 19 educational instruction, including among others;
 20 (a) academies;
 21 (b) colleges;
 22 (c) libraries;
 23 (d) schools; and
 24 (e) universities;
 25 (4) "Industrial occupancy" means the occupancy or use

1 of a building or structure or any portion thereof for
 2 assembling, fabricating, finishing, manufacturing,
 3 packaging, or processing operations, including among
 4 others;
 5 (a) assembly plants;
 6 (b) creameries;
 7 (c) electric substations;
 8 (d) factories;
 9 (e) ice plants;
 10 (f) laboratories;
 11 (g) laundries;
 12 (h) manufacturing plants;
 13 (i) mills;
 14 (j) power plants;
 15 (k) processing plants;
 16 (l) pumping stations;
 17 (m) repair garages;
 18 (n) smoke houses; and
 19 (o) ~~work-shops~~ workshops;
 20 (5) "Institutional occupancy" means the occupancy or
 21 use of a building or structure or any portion thereof by
 22 persons harbored or detained to receive medical, charitable,
 23 or other care or treatment, or by persons involuntarily
 24 detained, including among others;
 25 (a) asylums;

1 (b) homes for the aged;
 2 (c) hospitals;
 3 (d) houses of correction;
 4 (e) day care facilities;
 5 (f) infirmaries;
 6 (g) jails;
 7 (h) nurseries;
 8 (i) orphanages;
 9 (j) nursing homes;
 10 (k) penal institutions;
 11 (l) reformatories;
 12 (m) sanitariums;
 13 (n) long-term care facilities; and
 14 (o) boarding homes.
 15 (6) "Residential occupancy" means the occupancy or use
 16 of a building or structure or any portion thereof by persons
 17 for whom sleeping accommodations are provided, but and who
 18 are not harbored or detained to receive medical, charitable,
 19 or other care or treatment, or are not involuntarily
 20 detained, including among others, but not including
 21 single-family private houses;
 22 (a) apartments;
 23 (b) ~~club houses~~ clubhouses;
 24 (c) convents;
 25 (d) dormitories;

1 (e) dwellings;
 2 (f) hotels;
 3 (g) motels;
 4 (h) multifamily houses; and
 5 (i) lodging houses,
 6 ~~but not including single-family private houses."~~
 7 Section 13. Section 69-1808, R.C.M. 1947, is amended
 8 to read as follows:
 9 "69-1808. Inspection by fire chiefs, county sheriff
 10 sheriffs, or deputy fire marshals — review of plans by fire
 11 marshal — permits — notice of inadequate equipment —
 12 compliance — enforcement. (1) Within an incorporated
 13 ~~municipalities~~ municipality, an educational or institutional
 14 occupancy, whether public or private, may not be constructed
 15 or have alterations made costing ~~fifteen hundred dollars~~
 16 ~~(\$1,500)~~ or more ~~unless~~ until sketches or architectural
 17 plans for the construction or alteration, whichever are
 18 available, are submitted ~~for the construction or alteration~~
 19 to the state fire marshal and approved by him.
 20 (2) Outside an incorporated ~~municipalities~~
 21 municipality, an assembly, educational, or institutional
 22 occupancy may not be constructed or have alterations made
 23 costing ~~fifteen hundred dollars~~ ~~(\$1,500)~~ or more ~~unless~~
 24 until a permit has been issued for the construction or
 25 alteration by the county commissioners. A fee of ~~ten dollars~~

1 ~~(\$10)~~ shall be paid to the county treasurer for each permit.
 2 A copy of ~~said~~ the permit shall be furnished to the county
 3 assessor. No permit ~~shall~~ may be issued until sketches or
 4 architectural plans for the construction or alteration,
 5 whichever are available, are submitted ~~for the alteration or~~
 6 ~~construction of the above occupancies~~ to the state fire
 7 marshal and approved by him. The fire marshal and county
 8 sheriffs are responsible for enforcing the provisions of
 9 this subsection.

10 (3) A building designed for human occupancy owned or
 11 controlled by the state may not be constructed ~~unless~~ until
 12 plans for the construction have been submitted to the state
 13 fire marshal and approved by him.

14 (4) ~~It shall be the duty of the~~ The chief of the fire
 15 department of each municipality or district where a fire
 16 department is established and the county sheriff or deputy
 17 fire marshals where no fire department exists ~~at least once~~
 18 ~~each six (6) months to~~ shall enter into all buildings and
 19 upon all premises within ~~his~~ their jurisdiction at least
 20 once each 6 months for the purpose of ~~the examination of~~
 21 ~~each~~ examining the premises for violations of this act. ~~Each~~
 22 The inspection shall include but ~~shall is~~ not be limited to
 23 testing fire alarms, and fire extinguishers, examining fire
 24 hose, and attachments, and other fire apparatus, and
 25 examining fire escapes ~~provided for herein~~. Copies of ~~each~~

1 the inspection shall be filed in the office of the state
 2 fire marshal on forms to be provided by him.

3 (5) When ~~any~~ a building ~~shall be~~ is found which
 4 ~~required~~ requires the erection of fire escapes, and upon
 5 which fire escapes have not been erected according to the
 6 provisions of this act, or if fire hoses, fire
 7 extinguishers, fire alarms, or other fire apparatus is found
 8 to be lacking or defective or not in good working condition,
 9 the person making ~~each~~ the inspection or the state fire
 10 marshal shall serve a written notice upon the party ~~or~~
 11 ~~parties~~ whose duty it is to erect ~~each~~ the fire escapes, or
 12 maintain such fire apparatus. ~~Said~~ The notice shall specify
 13 the time within which ~~said~~ the fire escapes shall be
 14 erected, or ~~each~~ the defective conditions be remedied, and
 15 ~~in no case shall~~ which may not be more than ninety ~~(90)~~
 16 days, ~~and said~~ The notice ~~shall be deemed to have been~~ is
 17 served if delivered to the person to be notified, ~~or~~ if left
 18 with any adult person at the usual residence or place of
 19 business of the person to be notified, or if deposited in
 20 the post office, directed to the last known address of the
 21 person to be notified. ~~In case of~~ Whenever buildings within
 22 ~~the terms of this act, that~~ are managed and controlled by a
 23 board of trustees, board of commissioners, or other
 24 governing body, the notice is served if delivered to the
 25 president, secretary, or treasurer of the board of trustees.

~~board of commissioners, or other governing body, to cause the erection of fire escapes on said buildings, as may be required; provided, that the~~ The occupant or lessee of any building who is required to erect fire escapes under the provisions of this act, ~~shall be~~ is entitled to reimburse himself for the cost and expense of erecting ~~said the~~ fire escapes out of the rent or lease money of ~~said the~~ premises, and ~~such the~~ reimbursement ~~shall not be construed to be~~ is ~~not~~ a breach of any existing lease, contract, or any covenant thereof ~~not~~ or grounds for any action or damage ouster.

(6) The state fire marshal ~~shall have~~ has general charge and supervision of the enforcement ~~of the provisions~~ of this act, and ~~such officers as above enumerated the~~ officers enumerated in subsection (4) of this section shall act under ~~the his~~ general charge and supervision, ~~of the~~ state fire marshal. ~~Said officer shall assist the state fire marshal him~~ in giving effect to ~~the terms and provisions of~~ this act, and ~~shall be~~ are subject to his direction and ~~to~~ the rules adopted for the enforcement of this act."

Section 14. Section 69-1923, R.C.M. 1947, is amended to read as follows:

"69-1923. Storage of explosives in cities, etc. No person, company, or corporation ~~shall~~ may store, deposit, or keep within ~~one~~ 1 mile of the limits of ~~any~~ a city, town, or

village any powder, gunpowder, giant or Hercules powder, or other highly explosive substance, in ~~greater quantities than~~ one hundred ~~excess of~~ 100 pounds, or ~~more than one thousand~~ 1,000 giant caps, ~~at any one time,~~ nor shall ~~such~~ may explosives be stored, deposited, or kept in any ~~quantities~~ quantity whatever within ~~one~~ 1 mile of ~~such a~~ a city, town, or village, except in a magazine constructed as ~~hereinafter~~ described, provided for in 69-1907, ~~provided, that this~~ This section ~~shall not be construed to~~ does not prevent ~~any a~~ person, company, or corporation, operating a mine within ~~one~~ 1 mile of the limits of ~~such a~~ a city, town, or village, from storing powder for use in ~~such the~~ mine in the manner prescribed in ~~sections 69-1922 and 69-1924,~~ 69-1907. ~~provided also, that this~~ This section shall ~~does~~ not prevent the keeping of a reasonable amount of gunpowder, not exceeding fifty 50 pounds, in a safe place for sale."

Section 15. Section 69-1925, R.C.M. 1947, is amended to read as follows:

"69-1925. ~~Magazines, etc.,~~ Transportation vehicle to bear warning signs. ~~Every storehouse or magazine constructed as provided in the foregoing section, in which shall be stored, deposited, or kept any powder, gunpowder, giant or Hercules powder, giant caps, or other highly explosive substance, shall at all times have posted above the entrance thereof a signboard on which shall be painted in conspicuous~~

1 ~~letters not less than four inches in length the words~~
 2 ~~"explosives dangerous." Every dray, wagon, freight car, or~~
 3 ~~other~~ Each vehicle in which ~~shall be explosives are~~
 4 transported, transferred, or delivered ~~any of the said~~
 5 explosives, shall bear on each side thereof a similar sign
 6 ~~with having the words "explosives dangerous" in~~ conspicuous
 7 letters not less than ~~two~~ 2 inches in length."

8 Section 16. Section 69-2111, R.C.M. 1947, is amended
 9 to read as follows:

10 "69-2111. Adoption of rules by department. (1) The
 11 department shall adopt by reference nationally recognized
 12 building codes in whole or in part, amend ~~and or~~ repeal
 13 rules relating to the construction of all buildings or
 14 classes of buildings or the installation of equipment in
 15 those buildings, and may by rule prescribe standards or
 16 requirements for materials to be used in buildings,
 17 including provisions dealing with safety, sanitation, and
 18 conservation of energy. The rules, when adopted as provided
 19 in this chapter, constitute the "state building code" and
 20 ~~shall be are~~ acceptable for the buildings to which ~~it is~~
 21 ~~they are~~ applicable.

22 (2) The department may hold hearings relating to the
 23 administration of this act in accordance with the Montana
 24 Administrative Procedure Act.

25 (3) Except as provided in subsection (4) of this

1 section, no rule, ~~and no~~ amendment, or repeal of the state
 2 building code ~~shall~~ may take effect until after a public
 3 hearing by the department.

4 (4) If a hearing has been held by the ~~department of~~
 5 ~~justice~~ state fire marshal with respect to ~~its~~ his duties
 6 contained in Title 82, chapter 12, ~~or by~~ the board of
 7 plumbers, the department of health and environmental
 8 sciences, ~~the~~ board of warm air heating, ventilation, and
 9 air conditioning, or ~~the~~ state electrical board, on a
 10 proposed rule relating to building and equipment standards
 11 in their respective fields, a public hearing by the
 12 department is not required. The proposed rule is effective
 13 upon approval of the department and filing with the
 14 secretary of state as a part of the state building code.

15 (5) If a rule relating to building or equipment
 16 standards is proposed by the ~~department of justice~~ state
 17 fire marshal with respect to ~~its~~ his duties contained in
 18 Title 82, chapter 12, ~~or by the~~ board of plumbers, ~~the~~
 19 department of health and environmental sciences, ~~the~~ board
 20 of warm air heating, ventilation, and air conditioning, or
 21 ~~the~~ state electrical board which conflicts with the state
 22 building code, the department after consultation with the
 23 state agencies affected, shall modify the proposed rule or
 24 the state building code to resolve the conflict ~~after~~
 25 ~~consultation with the state agencies affected."~~

Section 17. Section 69-2701, R.C.M. 1947,¹ is amended to read as follows:

"69-2701. Fireworks prohibited and defined for the purposes of this ~~act~~ chapter. ~~or (1)~~ It ~~shall be~~ is unlawful to possess, sell, transport, or use any fireworks within the state of Montana except as ~~hereinafter~~ provided in this chapter.

~~or (2)~~ The term "fireworks" ~~shall mean and include~~ means any combustible, or explosive composition, or any substance, ~~or~~ combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and ~~shall include~~ includes sky rockets, ~~Roman~~ roman candles, ~~daygo~~ daygo bombs, blank cartridges, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel ~~the same~~ them, firecrackers, torpedoes, sparklers or other fireworks of like construction, and any fireworks containing any explosive ~~or~~ or flammable compound, or any tablets or other device containing any explosive substance. ~~Nothing in this law shall be construed as applying. This chapter does not apply~~ to toy paper caps containing ~~not more~~ less than ~~twenty-five hundredths~~ (.25) $\frac{1}{4}$ of a grain of explosive composition per cap, and to the manufacture, storage, sale, or use of signals necessary for the safe

operation of railroads or other classes of public or private transportation, ~~not applying~~ to the military or ~~any~~ naval forces of the United States or ~~of~~ this state, ~~or~~ to peace officers, ~~not as prohibiting or to~~ the sale or use of blank cartridges for ceremonial, ~~or~~ theatrical, or athletic events.

~~or (3)~~ It ~~shall be~~ is lawful for ~~any~~ an individual, firm, partnership, corporation, or association to possess for sale ~~within the state~~, sell or offer for sale, at retail, or use, within the state of Montana, the permissible fireworks ~~herewith~~ enumerated in subsection (4) of this section.

(4) Permissible fireworks, ~~shall include dangerous articles and, more specifically, shall exclude sky rockets, roman candles, daygo bombs, firecrackers, and bottle rockets~~, include and be are limited to the following, ~~but specifically excluding sky rockets, Roman candles and daygo bombs, firecrackers and bottle rockets~~:

~~(1)(a)~~ Helicopter ~~helicopter~~ type spinners, the total pyrotechnic composition not to exceed ~~twenty~~ (20) grams each in weight;

~~(2)(b)~~ Cylindrical ~~cylindrical~~ fountains, the total pyrotechnic composition not to exceed ~~twenty-five~~ (25) grams each in weight, ~~the and the~~ inside tube diameter ~~shall not~~ to exceed three-fourths ~~(3/4)~~ of an inch;

~~(3)(c)~~ Cone cone fountains, the total pyrotechnic composition not to exceed ~~fifty~~ {50} grams each in weight;

~~(4)(d)~~ Wheels wheels, the total pyrotechnic composition not to exceed ~~sixty~~ {60} grams in weight, for each driver unit, [but there may be any number of drivers on any one wheel.] The and the inside bore of driver tubes shall not to be over one-half ~~{1/2}~~ {1/2} of an inch;

~~(5)(e)~~ Illuminating illuminating torches and colored fire in any form, the total pyrotechnic composition not to exceed ~~one-hundred~~ {100} grams each in weight;

~~(6)(f)~~ Sparklers sparklers and dipped sticks, the total pyrotechnic composition not to exceed ~~one-hundred~~ {100} grams each in weight. ~~Pyrotechnic~~ {pyrotechnic composition containing any chlorate shall not to exceed ~~five~~ {5} grams; and

~~(7)(g)~~ Whistles whistles without report, the total pyrotechnic composition not to exceed ~~forty~~ {40} grams each in weight;

~~(5)~~ It shall ~~be~~ is unlawful for ~~any~~ an individual under the age of ~~eighteen~~ {18} to possess for sale, sell, or offer for sale, within the state of Montana, permissive fireworks ~~herein~~ enumerated in subsection {4} of this section.

~~(6)~~ It shall ~~be~~ is unlawful for ~~any~~ a wholesaler to sell or offer for sale, within the state of Montana,

fireworks except as ~~herein defined~~ enumerated in subsection {4} of this section. It shall ~~be~~ is lawful for ~~said~~ a wholesaler, however, to transport ~~said~~ fireworks within the ~~state of~~ Montana for sale outside of the state ~~of Montana.~~

~~4-(7)~~ No person, firm, or corporation shall may offer fireworks of any kind ~~as defined herein~~ for sale at retail before the ~~24th day of~~ June 24 and after the ~~5th day of~~ July 5.

~~6-(8)~~ It shall ~~be~~ is unlawful for ~~any~~ an individual, firm, partnership, or corporation to discharge or cause to be discharged any pyrotechnics ~~of any description whatever~~ within the exterior boundaries of ~~any~~ a state forest, ~~or~~ state park, or state recreation area."

Section 18. Section 69-2702, R.C.M. 1947, is amended to read as follows:

"69-2702. Supervised public display of fireworks. ~~Except as hereinafter provided, it shall be unlawful for any person, firm, copartnership, association or corporation to possess, offer for sale, expose for sale, sell, or use or explode any fireworks, provided that the~~ The state fire marshal and the governing body of ~~any~~ a city, town, ~~or~~ township or county ~~shall have power~~ may, under reasonable rules ~~and regulations~~ adopted by ~~it~~ them, ~~to~~ grant permits for supervised public displays of fireworks to be held ~~therein~~ by municipalities, fair associations, amusement

1 parks, and other organizations or groups of individuals.
 2 ~~Every such~~ Each display shall be handled by a competent
 3 operator, ~~to~~ who must be approved by the state fire marshal
 4 or ~~by~~ the governing body of the municipality in which the
 5 display is to be held, and ~~shall be of such a character, and~~
 6 ~~so~~ located, discharged, or fired as, in the opinion of the
 7 chief of the fire department or ~~such~~ other officer ~~as may be~~
 8 designated by the governing body of the municipality, after
 9 proper inspection, ~~shall not to~~ be hazardous to persons or
 10 property ~~or endanger any person or persons~~. Application for
 11 permits shall be made in writing at least ~~fifteen~~ 15 days
 12 ~~in advance of prior to~~ the date of the display. After ~~such~~
 13 ~~the~~ privilege ~~shall have~~ has been granted, sales,
 14 possession, use, and distribution of fireworks for ~~each the~~
 15 display ~~shall be~~ are lawful for that purpose only. No permit
 16 granted ~~hereunder shall be~~ under this section is
 17 transferable. The term "municipalities" ~~shall include~~
 18 includes cities, and incorporated towns or townships."

19 Section 19. Section 69-4428.1, R.C.M. 1947, is amended
 20 to read as follows:

21 "69-4428.1. Disinterment — permit. (1) A body, after
 22 burial, may be disinterred for reinterment or transport,
 23 ~~upon obtaining after~~ a permit ~~therefor~~ is obtained from the
 24 local registrar of the jurisdiction where the body is
 25 interred.

1 (2) Administration of ~~the act shall be~~ this section is
 2 in the department of health and environmental sciences,
 3 which shall adopt rules accordingly. The rules shall provide
 4 that, as a ~~right~~ precondition to the permit, the applicant
 5 make a showing of reasonable cause for the disinterment.

6 (3) This ~~act~~ section provides a supplementary
 7 procedure for disinterment of a dead body, and is not
 8 amendatory to or repealing of any other act."

9 Section 20. Section 69-4504, R.C.M. 1947, is amended
 10 to read as follows:

11 "69-4504. County boards of health ~~composition~~. There
 12 is a county board of health in each county consisting of:

13 (1) the county commissioners, and two ~~two~~ two members who
 14 are appointed by the county commissioners and serve at their
 15 pleasure; or

16 (2) five ~~five~~ five persons who are appointed by the county
 17 commissioners and serve at their pleasure. Terms of
 18 appointed members shall be staggered and ~~shall be~~ shall be for ~~three~~
 19 ~~three~~ three years each. ~~County~~ The county commissioners shall
 20 establish the staggered order of terms and all ~~regulations~~
 21 rules necessary to establish and maintain the board."

22 Section 21. Section 69-4508, R.C.M. 1947, is amended
 23 to read as follows:

24 "69-4508. Financing of local boards of health —
 25 appropriations — tax levies. (1) Local boards are financed

by general fund appropriations, special levy appropriations, state and federal funds available, and contributions from school boards and other official and nonofficial agencies.

(2) Appropriations are made as follows:

(a) County boards are financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments under Title 16, chapter 19, ~~Title 16, R. C. S. 1947.~~

(b) City boards are financed by an appropriation from the general fund of the city after approval of a budget in the way provided for other city offices and departments under Title 11, chapter 14, ~~Title 11, R. C. S. 1947.~~

(c) If a city-county board is created, it is financed by one of the following methods:

(i) The county commissioners and governing body of the each participating city, or cities, may mutually agree upon the division of expenses. The ~~county~~ county's part of the total expenses is financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments under Title 16, chapter 19, ~~Title 16, R. C. S. 1947.~~ The city, or cities, Each participating city's part of the total costs expenses is financed by an appropriation from the general fund of the city, ~~or cities, participating in the~~

~~city-county board~~ after approval of a budget in the way provided for other city offices and departments under Title 11, chapter 14, ~~Title 11, R. C. S. 1947.~~ All moneys shall be deposited with the county treasurer who shall disburse them as county funds, ~~or~~

(ii) In first and second class counties, the county commissioners and governing body of the each participating city, or cities, may mutually agree upon the division of the expenses. The ~~county~~ county's part of the total expenses is financed by a special levy of not more than ~~five~~ five mills on the taxable valuation of all property outside the incorporated limits of the each participating city, or cities, participating in the city-county board after approval of a budget in the way provided for other county offices and departments under Title 16, chapter 19, ~~Title 16, R. C. S. 1947.~~ If the ~~five~~ five mill ~~5-mill~~ levy is not sufficient to fund the ~~county~~ county's share, the county commissioners may supplement it with an appropriation from the county general fund. Each ~~city, or cities, participating~~ city's part of the total costs expenses is financed by a special levy of not more than ~~five~~ five mills on the taxable valuation of all property within the incorporated limits of the city, ~~or cities, participating in the city-county board~~ after approval of a budget in the way provided for other city offices and departments under Title 11, chapter 14,

1 ~~title 14, R.C.M. 1947.~~ All moneys shall be deposited with
 2 the county treasurer who shall disburse them as county
 3 funds. The special levies authorized by this subsection are
 4 in addition to all other levies authorized by law.

5 (d) District boards are financed by appropriations
 6 from the general funds of ~~the counties~~ each county in the
 7 district in proportion to the population in each county.
 8 First and second class cities which elect to be included in
 9 the district contribute to the county in which they are
 10 located in the way provided for city-county boards under
 11 subsection (2) (c) of this section. All funds shall be
 12 deposited with the county treasurer of one ~~of~~ of the
 13 counties as agreed upon by the commissioners of the counties
 14 in the district. The county treasurer shall disburse the
 15 funds as county funds.

16 (3) School boards and other official and nonofficial
 17 agencies may contribute funds to a local board.

18 (4) If the general fund of a city or county is not
 19 sufficient to meet the approved budget, a levy of not more
 20 than ~~one~~ ~~(1)~~ mill may be made on the taxable valuation of
 21 all property in the city or county in addition to all other
 22 levies authorized by law. This subsection does not apply
 23 when the board has been financed under subsection (2) (c) (ii)
 24 of this section."

25 Section 22. Section 69-5201, R.C.M. 1947, is amended

1 to read as follows:

2 "69-5201. Definitions. As used in this chapter, unless
 3 the context clearly indicates otherwise, the following
 4 definitions apply:

5 (1) "Hospital" means ~~any~~ a health care facility
 6 licensed by the department ~~of health and environmental~~
 7 ~~sciences~~ to provide, by or under the supervision of licensed
 8 physicians, services for medical diagnosis, treatment, and
 9 care of injured, disabled, or sick persons. Services
 10 provided may or may not include obstetrical care. A health
 11 care facility, in order to be licensed as a hospital, must
 12 have an organized medical staff, ~~shall provide twenty-four~~
 13 ~~(24) hour~~ 24-hour nursing care by licensed professional
 14 nurses, and ~~shall~~ be in compliance with the ~~regulations~~
 15 rules for licensed hospitals ~~as promulgated and~~ adopted by
 16 the state department ~~of health and environmental sciences~~.

17 (2) "~~Hospital-related~~ Hospital-related facility" means
 18 a facility licensed by the department ~~of health and~~
 19 ~~environmental sciences~~ to provide ~~any or all of the~~
 20 ~~following:~~ diagnosis, treatment, medical or nursing care,
 21 or medically related rehabilitation services. Such
 22 facilities include, but are not limited to, outpatient
 23 facilities, public health centers, rehabilitation
 24 facilities, long-term care facilities, infirmaries, mental
 25 health and mental retardation institutions, ~~alcohol~~

1 alcoholism and drug dependency centers, and half-way houses.
 2 A health care facility, in order to be licensed as a
 3 "~~hospital-related~~ hospital-related facility", shall be in
 4 compliance with the regulations, for the specific category
 5 of facility, ~~as promulgated and~~ adopted by the state
 6 department of health and environmental sciences.

7 ~~(a)(3)~~ "Outpatient facility--A" means a physically
 8 separate component of a licensed hospital, or a medical
 9 clinic or other establishment owned or operated by a
 10 licensed physician ~~or physicians~~, which has an observation
 11 bed or beds and ~~which~~ provides to patients, not requiring
 12 hospitalization, the services of persons licensed to
 13 practice medicine or dentistry in the state of Montana. ~~A~~
 14 ~~"observation bed" is a bed used by a patient recovering from~~
 15 ~~surgery or other treatment. No patient shall~~ may be allowed
 16 to remain in an outpatient facility for more than ~~six~~ ~~(6)~~
 17 hours.

18 (4) An "observation bed" is a bed used by a patient
 19 recovering from surgery or other treatment.

20 ~~(b)(5)~~ "Outpatient facility--B" means a facility
 21 operated physically apart from a hospital, other than a
 22 medical clinic or other establishment owned or operated by a
 23 licensed physician ~~or physicians~~, which provides to
 24 ambulatory patients, not requiring hospitalization, the
 25 services of persons licensed to practice medicine or

1 dentistry in ~~the state of~~ Montana, but which does not have
 2 an observation bed or beds as defined in subsection ~~(2)~~ ~~(a)~~
 3 (3).

4 ~~(a)(6)~~ "Public health ~~centers~~ center" means a publicly
 5 owned facility utilized by a local health unit for the
 6 provision of public health services, including related
 7 public facilities such as laboratories, clinics, and
 8 administrative offices operated in connection with a public
 9 health ~~centers~~ center.

10 ~~(a)(7)~~ "Rehabilitation facility" means a facility
 11 providing community service which is operated for the
 12 primary purpose of assisting in the rehabilitation of
 13 disabled persons through an integrated program under
 14 competent professional supervision, including, medical
 15 services and evaluation, and psychological, social, and
 16 vocational services and evaluation.

17 ~~(a)(8)~~ (a) "Long-term care facility" means a place
 18 which provides skilled nursing care to a total of two ~~(2)~~ or
 19 more persons or personal care to more than three ~~(3)~~
 20 persons, who, by reason of illness or disability, are unable
 21 to properly care for themselves and are not related to the
 22 owner or administrator by blood or marriage, and ~~may be~~
 23 includes the facilities defined as follows:

24 (i) "Skilled nursing facilities" are establishments
 25 furnishing continuous skilled nursing care and related

1 services ~~twenty-four~~ (24) hours a day.

2 (ii) "Intermediate care facilities--A" are
3 establishments furnishing limited skilled nursing care and
4 personal care.

5 (iii) "Intermediate care facilities--B" are
6 establishments providing only personal care and services to
7 residents.

8 (iv) "Combination facilities" are establishments
9 providing two ~~(2)~~ or more of the following services: skilled
10 nursing care and intermediate care--A and ~~or~~ B.

11 ~~(v)~~ (b) Hotels, motels, boarding houses, rooming
12 houses, or similar accommodations providing for transients,
13 students, or persons not requiring institutional health care
14 are not considered to be long-term care facilities.

15 ~~(6)~~ (9) "Infirmiry" means a facility located in a
16 university, college, government institution, or industry,
17 for the treatment of the sick or injured.

18 ~~(4)~~ (10) "Infirmiry--A" provides outpatient and
19 inpatient care.

20 ~~(11)~~ (11) "Infirmiry--B" provides outpatient care only.

21 ~~(3)~~ (12) "Person" means ~~any~~ an individual, firm,
22 partnership, association, ~~or~~ corporation, or governmental
23 unit.

24 ~~(4)~~ (13) "Governmental unit" means the state, a state
25 agency, ~~any~~ a county, municipality, or political subdivision

1 of the state, or an agency of ~~any~~ a political subdivision.

2 ~~(5)~~ (14) "Resident" means a person who is in a long-term
3 care facility as a patient or for personal care.

4 ~~(6)~~ (15) "Health care facility" means a hospital,
5 ~~hospital-related~~ hospital-related facility, or long-term
6 care facility.

7 ~~(7)~~ (16) "Department" means ~~state~~ the department of
8 health and environmental sciences provided for in Title 82A,
9 chapter 6.

10 ~~(8)~~ (17) "Construction" means the erection, expansion,
11 remodeling, or alteration of ~~any~~ a new or existing facility,
12 the capital expenditure for which amounts to ~~fifty-thousand~~
13 ~~dollars~~ (\$50,000) or more in any ~~twelve-month~~ 12-month
14 period, or any substantial change in services, ~~or~~ any
15 increase or decrease in the number of beds in excess of ~~ten~~
16 ~~percent~~ (10%) of the licensed capacity of the facility, or
17 in excess of ~~ten~~ (10) beds, whichever is the lesser, or any
18 purchase of therapeutic or diagnostic equipment (excluding
19 replacement of existing equipment) in any ~~twelve-month~~
20 12-month period, at a cost exceeding ~~two-percent~~ (2%) of the
21 facility's total operating costs for the most recently
22 completed fiscal year up to a maximum of ~~one-hundred~~
23 ~~thousand-dollars~~ (\$100,000), or exceeding ~~ten-thousand~~
24 ~~dollars~~ (\$10,000), whichever is larger. All exceptions from
25 this definition must nevertheless be consistent with the

1 state medical facilities plan of the department."

2 Section 23. Section 69-5207, R.C.M. 1947, is amended
3 to read as follows:

4 "69-5207. Denial of application for long-term care
5 facility. The department may deny an application for a
6 long-term care facility license if:

7 (1) it fails to meet minimum standards prescribed
8 under section 69-5213;

9 (2) the staff is insufficient in number or unqualified
10 by lack of training or experience;

11 (3) the applicant or any person managing it has been
12 convicted of a felony and denial of a license on that basis
13 is qualified by 66-4003 or the applicant otherwise shows
14 evidence of character traits inimical to the health and
15 safety of residents; or

16 (4) if the applicant does not have the financial
17 ability to operate the facility in accordance with law, ~~or~~
18 rules, or standards adopted by the department."

19 Section 24. Section 69-5502, R.C.M. 1947, is amended
20 to read as follows:

21 "69-5502. Definitions. As used in this chapter, unless
22 the context clearly indicates otherwise, the following
23 definitions apply:

24 (1) "Public swimming pool" means any an artificial
25 pool and bathhouses and related appurtenances for swimming,

1 bathing, or wading, including natural hot water pools. The
2 term does not include:

3 (a) swimming pools located on private property used
4 for swimming or bathing only by the owner, members of his
5 family, or their invited guests; or

6 (b) medicinal hot water baths for individual use.

7 (2) "Public bathing place" means a body of water and
8 with bathhouses and related appurtenances operated for the
9 public.

10 (3) "Person" means a person, firm, partnership,
11 corporation, organization, the state, or any political
12 subdivision of the state."

13 Section 25. Section 69-6701, R.C.M. 1947, is amended
14 to read as follows:

15 "69-6701. Definitions. (1) "Department" means the
16 department of health and environmental sciences provided for
17 in Title 82A, chapter 6.

18 (2) "Standard serological test" means a test for
19 syphilis, rubella immunity, and blood group, including ABO
20 (Landsteiner blood type designation—O, A, B, AB) and RH
21 (Dd) type, approved by the department."

22 Section 26. Section 69-6704, R.C.M. 1947, is amended
23 to read as follows:

24 "69-6704. Certificate form. The "certificate form" to
25 be provided the physician recording the results of the test

1 made by the laboratory shall be the same form as that
2 provided with respect to the premarital standard serological
3 test in ~~section~~ 48-135."

4 Section 27. Section 69-7102, R.C.M. 1947, is amended
5 to read as follows:

6 "69-7102. Definitions. In this act the following
7 definitions apply:

8 (1) "Department" means the department of health and
9 environmental sciences provided for in Title 82A, chapter 6.

10 (2) "Person" includes an individual, partnership,
11 corporation, or association, or his legal representative or
12 agent.

13 (3) "Commerce" means all commerce within this state
14 and subject to the jurisdiction thereof, and includes the
15 operation of any business or service establishment.

16 (4) (a) "Hazardous substance" means:

17 ~~(a)~~ (i) Any a substance or mixture of substances which:

18 (A) is toxic;_i

19 (B) is corrosive;_i

20 (C) is an irritant;_i

21 (D) is a strong sensitizer;_i

22 (E) is flammable or combustible;_i or

23 (F) generates pressure through decomposition, heat, or

24 other means, if ~~such~~ the substance or mixture of substances

25 may cause substantial personal injury or substantial illness

1 during or as a proximate result of any customary or
2 reasonably foreseeable handling or use, including reasonably
3 foreseeable ingestion by children;_i

4 (ii) ~~Any~~ substances which the department by rule finds,
5 under ~~section~~ 69-7103(1), meet the requirements of
6 ~~subparagraph (a)(i) of this paragraph~~ subsection (4)(a)(i)
7 of this section;

8 (iii) ~~Any a~~ radioactive substance, if, with respect to
9 ~~each~~ the substance as used in a particular class of article
10 or as packaged, the department determines by rule that the
11 substance is sufficiently hazardous to require labeling in
12 accordance with this act in order to protect the public
13 health;_i or

14 (iv) ~~Any a~~ toy or other article intended for use by
15 children which presents an electrical, mechanical, or
16 thermal hazard, as determined by the department by rule
17 determines in accordance with section 69-7103(5) of this act
18 ~~presents an electrical, mechanical, or thermal hazard.~~

19 (b) The term "hazardous substance" does not apply to
20 pesticides subject to the ~~Federal~~ federal Pesticide
21 Environmental Control Act or the Montana Pesticide
22 Pesticides Act, ~~as to~~ foods, drugs, and cosmetics subject
23 to the Montana Food, Drug, and Cosmetic Act, ~~as to~~ or to
24 substances intended for use as fuels when stored in
25 containers and used in the heating, cooking, or

1 refrigeration system of a house, ~~but the~~ The term applies,
 2 ~~however,~~ to ~~any~~ an article which is not itself a pesticide
 3 within the meaning of the ~~Federal~~ federal Pesticide
 4 Environmental Control Act or the Montana Pesticide Act, but
 5 which is a hazardous substance within the meaning of
 6 ~~subparagraph (a)~~ subsection (4) (a) of this ~~paragraph~~ section
 7 by reason of bearing or containing ~~such~~ a pesticide, ~~the~~
 8 The term also applies to pesticides ~~where~~ whenever human
 9 health is directly affected from the use or misuse of
 10 pesticides requiring an accident investigation for the
 11 purpose of preparing recommendations to federal or state
 12 pesticide control agencies.

13 (c) The term "hazardous substance" does not include
 14 ~~any~~ source material, special nuclear material, or by-product
 15 material as defined in the Atomic Energy Act of 1954, as
 16 amended, and rules issued pursuant thereto by the atomic
 17 energy commission.

18 (5) "Toxic" means ~~any~~ a substance (other than a
 19 radioactive substance) which has the capacity to produce
 20 personal injury or illness to man through ingestion,
 21 inhalation, or absorption through any body surface.

22 (6) (a) "Highly toxic" means ~~any~~ a substance which
 23 falls within any of the following categories:

24 (i) produces death within ~~fourteen~~ {14} days in
 25 one-half ~~{1/2}~~ {1/2} or more of a group of ~~ten~~ {10} or more

1 laboratory white rats each weighing between ~~two-hundred~~
 2 ~~{200}~~ and ~~three-hundred~~ {300} grams, at a single dose of
 3 ~~fifty~~ {50} milligrams or less per kilogram of body weight,
 4 when orally administered; ~~or~~

5 (ii) produces death within ~~fourteen~~ {14} days in
 6 one-half ~~{1/2}~~ {1/2} or more of a group of ~~ten~~ {10} or more
 7 laboratory white rats each weighing between ~~two-hundred~~
 8 ~~{200}~~ and ~~three-hundred~~ {300} grams, when inhaled
 9 continuously for a period of ~~one~~ {1} hour or less at an
 10 atmosphere concentration of ~~two-hundred~~ {200} parts per
 11 million or less by volume ~~or less~~ of gas or vapor or ~~two~~ {2}
 12 milligrams per liter or less by volume ~~or less~~ of mist or
 13 dust, if ~~such~~ that concentration is likely to be encountered
 14 by man when the substance is used in ~~any~~ a reasonably
 15 foreseeable manner; or

16 (iii) produces death within ~~fourteen~~ {14} days in
 17 one-half ~~{1/2}~~ {1/2} or more of a group of ~~ten~~ {10} or more
 18 rabbits tested in a dosage of ~~two-hundred~~ {200} milligrams
 19 or less per kilogram of body weight, when administered by
 20 continuous contact with the bare skin for ~~twenty-four~~ {24}
 21 hours or less.

22 (b) If the department finds that available data on
 23 human experience with ~~any~~ a substance indicate results
 24 different from those obtained on animals in the above-named
 25 dosages or concentrations, the human data shall take

precedence.

(7) "Corrosive" means ~~any~~ a substance which in contact with living tissue will cause destruction of tissue by chemical action, but does not refer to action on inanimate surfaces.

(8) "Irritant" means ~~any~~ a substance not corrosive within the meaning of subsection (7) of this section which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(9) "Strong sensitizer" means a substance which will cause on normal living tissue, through an allergic or photodynamic process, a hypersensitivity.

(10) ~~(a)~~ (a) "Extremely flammable" applies to ~~any~~ a substance which has a flash point at or below ~~twenty-degrees~~ 20-degrees F, as determined by the tagliabue open cup tester.

~~(a)~~ (b) "Flammable" applies to ~~any~~ a substance which has a flash point ~~of above twenty-degrees~~ 20-degrees to and including ~~eighty-degrees~~ 80-degrees F, as determined by the tagliabue open cup tester.

~~(b)~~ (c) "Combustible" applies to ~~any~~ a substance which has a flash point above ~~eighty-degrees~~ 80-degrees ~~to and including one-hundred-fifty-degrees~~ 150-degrees F, as determined by the tagliabue open cup tester, ~~except that the~~

(d) The flammability or combustibility of solids and of the contents of self-pressurized containers shall be determined by methods found by the department to be generally applicable to ~~each~~ the materials or containers, respectively, and established by rules issued by the department, which rules shall also define the terms "flammable", "combustible", and "extremely flammable" in accord with ~~each~~ the methods used.

(11) "Radioactive substance" means a substance which emits ionizing radiation.

(12) "Label" means a display of written, printed, or graphic matter upon the immediate container "immediate container" does not include package liners of ~~any~~ a substance, or, in the case of an article which is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, a display of such matter directly upon the article involved or upon a tag or other suitable material affixed thereto, ~~and a~~ a requirement made by or under authority of this act that ~~any~~ a word, statement, or other information appear on the label shall not be considered to be complied with unless ~~each~~ the word, statement, or other information also appears:

(a) on the outside container or wrapper, if any, unless it is easily legible through the outside container or wrapper; and

(b) on all accompanying literature where there are directions for use, written or otherwise.

~~(13) "Immediate container" does not include package liners.~~

~~(14)~~ (13) "Misbranded hazardous substance" means a hazardous substance (including a toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such a manner as to be susceptible of access by a child to whom ~~such~~ the toy or other article is entrusted) intended, or packaged in a form suitable for use by the public or by children, which substance, except as otherwise provided ~~by or under section 69-7103~~ under 69-7103(2) or (3), fails to bear a label:

(a) which states conspicuously:

(i) the name and place of business of the manufacturer, packer, distributor, or seller;

(ii) the common or usual name or the chemical name (if ~~there be no~~ is not a common or usual name) of the hazardous substance or of each component which contributes substantially to its hazard, unless the department by rule permits or requires the use of a recognized generic name;

(iii) the signal word "danger" on substances which are extremely flammable, corrosive, or highly toxic;

(iv) the signal word on all other hazardous substances;

(v) an affirmative statement of the principal hazard or hazards, such as:

(A) "flammable";

(B) "combustible";

(C) "vapor harmful";

(D) "causes burns";

(E) "absorbed through skin"; or

(F) similar wording descriptive of the hazard;

(vi) precautionary measures describing the action to be followed or avoided, except when modified by a rule of the department under ~~section 69-7103(2) or (3)~~:

(vii) instruction, when necessary or appropriate, for ~~first aid~~ first aid treatment;

(viii) "poison" for any hazardous substance which is defined as "highly toxic" by subsection (6) of this section; and

(ix) instructions for handling and storage ~~or~~ of packages which require special care in handling or storage such as:

(A) "keep out of the reach of children" or its practical equivalent; or

(B) if the article is intended for use by children and is not a banned hazardous substance, adequate directions for the protection of children from the hazard; and

(b) on which ~~any~~ a statement required under

~~subparagraph (a) of this paragraph are~~ subsection (13)(a) of this section is located prominently and ~~are is~~ in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label.

~~(15)(14)~~ (a) "Banned hazardous substance" means:

(i) ~~any~~ a toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such a manner as to be susceptible of access by a child to whom the toy or other article is entrusted; or

(ii) ~~any~~ a hazardous substance intended, or packaged in a form suitable for use by the general public which the department by rule classifies as a "banned hazardous substance" on the basis of a finding that, notwithstanding such cautionary labeling as is or may be required under this act for that substance, the degree or nature of the hazard involved in the presence or use of ~~such~~ the substance by the general public is such that the objective of the protection of the public health and safety can be adequately served only by keeping the substance, when so intended or packaged, out of the channels of commerce. ~~However, the~~

(b) The department by rule shall exempt from clause (i) of this paragraph subsection (14)(a)(i) of this section articles, such as chemical sets, which, by reason of their

functional purpose, require the inclusion of the hazardous substance involved or necessarily present an electrical, mechanical, or thermal hazard, and which bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected, to read and heed the directions and warnings.

~~(b)(c)~~ Proceedings for the issuance, amendment, or repeal of rules under ~~clause (ii) of subparagraph (a) of this paragraph subsections (14)(a)(ii) and (14)(b) of this section~~ shall be governed by the provisions of ~~section 69-7102 of the act subsections (4) and (5) of 69-7103.~~

~~(16)(15)~~ An article may be determined to present an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electric shock.

~~(17)(16)~~ An article may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness:

(a) from fracture, fragmentation, or disassembly of the article;

(b) from propulsion of the article (or ~~any~~ a part or

1 accessory thereof);
 2 (c) from points or other protrusions, surfaces, edges,
 3 openings, or closures;
 4 (d) from moving parts;
 5 (e) from lack or insufficiency of controls to reduce
 6 or stop motion;
 7 (f) as a result of self-adhering characteristics of
 8 the article;
 9 (g) because the article (or ~~any~~ a part or accessory
 10 thereof) may be aspirated or ingested;
 11 (h) because of instability; or
 12 (i) because of any other aspect of the article's
 13 design or manufacture.
 14 ~~(18)~~ (17) An article may be determined to present a
 15 thermal hazard if, in normal use or when subjected to
 16 reasonably foreseeable damage or abuse, its design or
 17 manufacture presents an unreasonable risk of personal injury
 18 or illness because of heat as from heated parts, substances,
 19 or surfaces.
 20 ~~(19)~~ (18) "Court" means, in ~~section 69-7103~~ 69-7103(5),
 21 the district court for the first judicial district, and, in
 22 ~~sections 69-7106 and 69-7107~~, the district court is in the
 23 district ~~in which~~ where the violation occurs."
 24 Section 28. Section 69-7103, R.C.M. 1947, is amended
 25 to read as follows:

1 "69-7103. Declaration of hazardous substance —
 2 labeling requirements — court proceedings. (1) When in the
 3 judgment of the department such action will promote the
 4 objectives of this act by avoiding or resolving uncertainty
 5 as to its application, the department may by rule declare to
 6 be a hazardous substance, ~~for the purposes of this act, any~~
 7 a substance or mixture of substances which the department
 8 finds meets the requirements of ~~subparagraph (a) (i)~~
 9 subsection (5) (a) (i) of section 69-7103(4) 69-7102.
 10 (2) If the department finds that the requirements of
 11 ~~section 69-7102(14) (a)~~ 69-7102(13) (a) are not adequate for
 12 the protection of the public health and safety in view of
 13 the special hazard presented by ~~any particular~~ a hazardous
 14 substance, the department may by rule establish such
 15 reasonable variations or additional ~~label~~ labeling
 16 requirements as are necessary for the protection of the
 17 public health and safety, and ~~any such~~ a hazardous substance
 18 intended, or packaged in a form suitable, for use by the
 19 general public or by children, which fails to bear a label
 20 in accordance with the rules ~~shall be~~ is a misbranded
 21 hazardous substance.
 22 (3) If the department finds that, because of the size
 23 of the package involved or because of the minor hazard
 24 presented by the substance contained therein, or for other
 25 good and sufficient reasons, full compliance with the

1 labeling requirements otherwise applicable under¹ this act is
 2 impracticable or is not necessary for the adequate
 3 protection of the public health and safety, the department
 4 shall adopt rules exempting ~~such~~ the substance from these
 5 requirements to the extent of being consistent with adequate
 6 protection of the public health and safety.

7 (4) If the department finds that the hazard of an
 8 article subject to this act is such that labeling adequate
 9 to protect the public health and safety cannot be devised,
 10 or the article presents an imminent danger to the public
 11 health and safety, the department may declare the article a
 12 banned hazardous substance and require its removal from
 13 commerce.

14 (5) (a) A determination by the department that a toy
 15 or other article intended for use by children presents an
 16 electrical, mechanical, or thermal hazard shall be made by
 17 rule in accordance with this act.

18 (b) If, before or during a proceeding under ~~paragraph~~
 19 ~~(a) of this subsection~~ subsection (5) (a) of this section,
 20 the department finds that, because of an electrical,
 21 mechanical, or thermal hazard, distribution of ~~the~~ a toy or
 22 other article involved presents an imminent hazard to the
 23 public health and the department gives notice of ~~such~~ the
 24 finding, the toy or other article ~~shall be~~ is a banned
 25 hazardous substance for purposes of this act until the

1 proceeding has been completed. If not yet initiated when
 2 the notice is given, the proceeding shall be initiated as
 3 promptly as possible.

4 (c) (i) In the case of ~~any~~ a toy or other article
 5 intended for use by children which is determined by the
 6 department to present an electrical, mechanical, or thermal
 7 hazard, ~~any~~ a person who will be adversely affected by ~~such~~
 8 the a determination may, at any time before the ~~sixtieth~~
 9 60th day after the rule making the determination is issued
 10 by the department, file a petition with the court for a
 11 judicial review of ~~such~~ the determination. A copy of the
 12 petition shall be immediately transmitted by the clerk of
 13 the court to the department. The department shall file in
 14 the court the record of the proceedings on which the
 15 department based its determination.

16 (ii) If the petitioner applies to the court for leave
 17 to adduce additional evidence, and shows to the satisfaction
 18 of the court that ~~such~~ the additional evidence is material
 19 and that there was no opportunity to adduce ~~such~~ the
 20 evidence in the proceeding before the department, the court
 21 may order ~~such~~ the additional evidence (and evidence in
 22 rebuttal thereof) to be taken before the department in a
 23 hearing or in ~~such~~ another ~~other~~ manner, and upon ~~such~~ other
 24 terms and conditions, as the court ~~may consider~~ considers
 25 proper. The department may modify ~~their~~ its findings as to

the facts, or make new findings, by reason of the additional evidence so taken, and ~~they~~ it shall file ~~such~~ the modified or new findings, and ~~their~~ its recommendation, if any, for the modification or setting aside of ~~their~~ its original determination, with the return of ~~such~~ the additional evidence.

(iii) Upon the filing of the petition under ~~this paragraph subsection (5)(c) of this section~~, the court has jurisdiction to review the determination of the department. If the court ordered additional evidence to be taken under ~~subparagraph (ii) of this paragraph subsection (5)(c)(ii) of this section~~, the court shall also review the department's determination to determine if, on the basis of the entire record before the court under ~~subparagraphs (i) and (ii) of this paragraph subsections (5)(c)(i) and (5)(c)(ii) of this section~~, it is supported by substantial evidence. If the court finds the determination is not so supported, the court may set it aside. With respect to ~~any~~ a determination reviewed under ~~this paragraph subsection (5)(c) of this section~~, the court may grant appropriate relief pending conclusion of the review proceedings."

Section 29. Section 69-7105, R.C.M. 1947, is amended to read as follows:

"69-7105. Penalty — exceptions. (1) ~~any~~ A person who violates ~~any~~ of the provisions of ~~section~~ 69-7104 is guilty

of a misdemeanor and shall be fined ~~not more than five hundred dollars (\$500)~~ or be imprisoned for ~~not more than any term not to exceed ninety (90) days~~, or both. For offenses committed with intent to defraud or mislead, or for second and subsequent offenses, the penalty shall be imprisonment for ~~not more than any term not to exceed one (1) year~~, or a fine of ~~not more than three thousand dollars (\$3,000)~~, or both ~~imprisonment and fine~~.

(2) No person is subject to the penalties of subsection (1) of this section:

(a) for having violated ~~section 69-7104(3)~~, if the receipt, delivery, or proffered delivery of the hazardous substance was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the department, the name and address of the person from whom he purchased or received ~~such~~ the hazardous substance, and copies of all documents, ~~if any there be~~, pertaining to the delivery of the hazardous substance to him; or

(b) for having violated ~~section 69-7104(1)~~, if he establishes a guarantee or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous substance, to the effect that the hazardous substance is not a misbranded ~~hazardous~~ or a banned hazardous substance within the meaning of those terms in ~~the~~

1 this act."

2 Section 30. Section 69-7107, R.C.M. 1947, is amended
3 to read as follows:

4 "69-7107. Detainer of misbranded or banned hazardous
5 substance. (1) ~~Whenever~~ If a duly authorized agent of the
6 department finds or has probable cause to believe that ~~any~~ a
7 hazardous substance is ~~a~~ misbranded, or is a banned
8 hazardous substance, within the meaning of this act, he
9 shall affix to ~~such~~ the article a tag or other appropriate
10 marking, giving notice that ~~such~~ the article is, or is
11 suspected of being, misbranded or is a banned hazardous
12 substance and has been detained or embargoed, and warning
13 all persons not to remove or dispose of ~~such~~ the article by
14 sale or otherwise until permission for removal or disposal
15 is given by ~~such~~ the agent or the court. It ~~shall be~~ is
16 unlawful for ~~any~~ a person to remove or dispose of ~~such~~ a
17 detained or embargoed article by sale or otherwise without
18 ~~such~~ permission.

19 (2) ~~When~~ If an article detained or embargoed under
20 subsection (1) ~~has been~~ is found by ~~such~~ the agent to be
21 misbranded or a banned hazardous substance, he shall
22 petition the judge ~~ex~~ of the police city, county justice's,
23 or ~~circuit~~ district court in whose jurisdiction the article
24 is detained or embargoed for ~~a~~ an order of
25 condemnation of ~~such~~ the article. ~~When such~~ If the agent

1 ~~has found~~ finds that an article so detained or embargoed is
2 not misbranded or a banned hazardous substance, he shall
3 remove the tag or other marking.

4 (3) If the court finds that a detained or embargoed
5 article is misbranded or a banned hazardous substance, ~~such~~
6 the article shall, after entry of the decree, be destroyed
7 at the expense of the claimant thereof, under supervision of
8 ~~such~~ the agent, and all court costs and fees and storage and
9 other proper expenses, ~~shall be~~ are to be taxed against the
10 claimant of ~~such~~ the article or his agent, ~~provided, that~~
11 ~~when~~ If the misbranding can be corrected by proper labeling
12 of the article, the court, after entry of the decree and
13 after ~~such~~ the costs, fees, and expenses have been paid and
14 a good and sufficient bond, conditioned that ~~such~~ the
15 article shall will be so labeled, has been executed, may by
16 order direct that ~~such~~ the article be delivered to the
17 claimant thereof for ~~such~~ the labeling under the supervision
18 of an agent of the department. The expense of ~~such~~ the
19 supervision shall be paid by the claimant. The article
20 shall be returned to the claimant on the representation to
21 the court by the department that the article is no longer in
22 violation of this act, and that the expenses of ~~such~~ the
23 supervision have been paid."

24 Section 31. Section 69-7108, R.C.M. 1947, is amended
25 to read as follows:

"69-7108. Duties of department and county attorney. It is the duty of the department or the county attorney to whom the department reports ~~any~~ a violation of this act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before ~~any~~ a violation of this act is reported to ~~any such a county~~ attorney for the institution of a criminal proceeding, the person against whom ~~such the~~ proceeding is contemplated shall be given appropriate notice and an opportunity to present his ~~view~~ views before the department, either orally or in writing, and either in person or by attorney, with regard to ~~such the~~ contemplated proceeding."

Section 32. Section 69-7110, R.C.M. 1947, is amended to read as follows:

"69-7110. Powers and duties of department's agents.

(1) For enforcement of this act, officers or employees duly designated by the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized to:

(a) ~~to enter, at reasonable time, any times a~~ factory, warehouse, or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into commerce or are held after such introduction; ~~or~~

(b) ~~to~~ enter ~~any a~~ vehicle being used to transport or hold ~~such~~ hazardous substances in commerce;

(c) ~~to~~ inspect, at reasonable times, ~~and within~~ reasonable limits, and in a reasonable manner, ~~such a~~ factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished materials, and labeling therein; and

(d) ~~to~~ obtain samples of ~~such~~ materials or packages or labeling thereof, ~~or of such labeling~~.

(2) If the officer or employee obtains ~~any a~~ sample, prior to leaving the premises, he shall pay or offer to pay the owner, operator, or agent in charge for ~~such the~~ sample and give a receipt describing the samples obtained.

(3) The department ~~will~~ shall conduct investigations of reported accidental injuries, illnesses, and deaths resulting from the use or misuse of all hazardous substances, as defined by 69-7102(4)(a)(i), intended or suitable for use by the general public ~~as defined under section 69-7102(4)(a)(i)~~. Investigations ~~will~~ shall evaluate the causative hazardous substance and circumstances of the accident for enforcement of this act. ~~where~~ If the offending hazardous substance is a pesticide regulated by another agency ~~as under the Federal federal~~ Environmental Pesticide Control Act or the Montana Pesticide Pesticides Act, the investigation ~~will~~ shall yield recommendations to

the appropriate regulating agency for appropriate action."

Section 33. Section 82-1201, R.C.M. 1947, is amended to read as follows:

"82-1201. ~~Creation of office of state fire~~ Fire marshal fire prevention advisory commission bureau.

(1) There is ~~an office of state a fire marshal bureau in the department of justice~~ which is under the supervision and control of the ~~commissioner of insurance~~ attorney general.

(2) The ~~state chief of the fire marshal bureau~~ shall be appointed by the ~~commissioner of insurance~~ attorney general and shall serve at his pleasure. The chief of the fire marshal bureau is the state fire marshal.

(3) A person appointed state fire marshal shall:

(a) have ~~at least ten (10)~~ years of progressively responsible experience in fire protection; or

(b) have a degree in engineering from a recognized institution of higher education and ~~two (2)~~ years' experience in fire protection; or

(c) have a degree from a recognized institution of higher education in fire protection engineering or fire protection technology.

~~(4) Not later than thirty (30) days after this act becomes effective the commissioner of insurance shall appoint a fire prevention advisory commission composed of the following members:~~

~~(a) One person representing the fire insurance industry whose initial term shall be for one (1) year;~~

~~(b) One person representing industry whose initial term shall be for one (1) year;~~

~~(c) One person representing full-time paid fire departments whose initial term shall be for two (2) years;~~

~~(d) One person representing volunteer fire departments whose initial term shall be for two (2) years;~~

~~(e) One person representing architects of the state whose initial term shall be for three (3) years;~~

~~(f) One person representing the public whose initial term shall be for four (4) years;~~

~~(g) The commissioner of insurance.~~

~~After termination of the initial term, all members shall be appointed for four (4) year terms. Appointed members of the commission shall be reimbursed for meeting at the rate of twenty dollars (\$20) per day plus actual expenses including mileage, food, and lodging. The commissioner of insurance shall serve as chairman, and the state fire marshal shall serve as secretary of the commission."~~

Section 34. Section 82-1202, R.C.M. 1947, is amended to read as follows:

"82-1202. Powers of the state and duties of fire marshal. (1) The state fire marshal shall:

~~(1)(a) Make make~~ at least one inspection during every
a year, of each state institution, and submit a copy of the
report to the state department of institutions with
recommendations in regard to fire prevention, fire
protection, and ~~to the public safety;~~

~~(2)(b) Make make~~ at least one inspection during every
a year, of each unit of the Montana university system, and
submit a copy of the report to the ~~executive secretary of~~
~~the university system~~ commissioner of higher education with
recommendations in regard to fire prevention, fire
protection, and ~~to the public safety;~~

~~(3)(c) Inspect inspect~~ public, business, or industrial
buildings and require conformance to law ~~or and~~ rules
promulgated under the provisions of this act, chapter; and

~~(4)(d) Do do~~ all things necessary and convenient for
carrying into effect the fire prevention laws of this state,
~~governing this act and~~

(2) The state fire marshal may;

(a) adopt necessary rules necessary for safeguarding
lives life and property from the hazards of fire and
explosion; ~~and Rules shall be adopted as prescribed in the~~
~~"Montana Administrative Procedure Act"~~

(b) If fire prevention rules are violated, the fire
marshal may if necessary to safeguard life and property
under rules promulgated pursuant to this section, maintain

an action to enjoin the use of all or a portion of a
building or facility, or restrain a specific activity, until
there is compliance with the rules.

~~(5) Rules relating to building and equipment standards~~
~~covered by the state or a municipal building code are~~
~~effective after approval by the department of administration~~
~~and filing with the secretary of state.~~

(3) Rules shall be adopted as prescribed in the
Montana Administrative Procedure Act."

Section 35. Section 82-1215, R.C.M. 1947, is amended
to read as follows:

"82-1215. Duties of marshal and deputies in case of
violation of law -- false swearing or contemptuous conduct
of witnesses. (1) If the state fire marshal or a deputy fire
marshal shall be is notified by ~~any an~~ officer or other
~~persons, person~~ or ~~shall have knowledge knows~~ of ~~any a~~
violation of ~~any of the provisions of this act, or of the~~
laws of this state relating to fires, ~~it shall be his duty~~
he shall forthwith immediately and diligently ~~to~~ inquire
into the facts of ~~such the~~ violation, ~~and for that purpose~~
~~he~~ The state fire marshal or a deputy fire marshal is hereby
authorized to ~~cause subpoenas to be have a subpoena~~ issued
for ~~such, persons a person~~ as he ~~shall have has~~ reason to
believe ~~have any has~~ information or knowledge concerning, ~~or~~
~~knowledge of such a~~ violation, of the laws relating to

1 fires. The subpoena shall command the person to appear
 2 before a justice of the peace at the time and place ~~to be~~
 3 designated in the subpoena, ~~then and there~~ to testify
 4 concerning ~~any a~~ violation of ~~any of the provisions of such~~
 5 ~~laws, the laws relating to fires, and for that~~ For the
 6 purpose of having a subpoena issued, the said state fire
 7 marshal or deputy fire marshal may file with ~~some a~~ justice
 8 of the peace a written statement signed by ~~said the~~ state
 9 fire marshal or deputy state fire marshal, alleging ~~any a~~
 10 violation of the laws of this state relating to fires, ~~or~~
 11 ~~any of the provisions of this act, and naming the witness to~~
 12 be subpoenaed, and said The justice of the peace shall then,
 13 ~~upon the written precept of the state fire marshal or~~
 14 ~~deputy state fire marshal,~~ issue a subpoena for the witness
 15 named ~~in said precept,~~ commanding ~~such witness~~ him to be
 16 and appear before ~~such the~~ justice of the peace at the time
 17 designated in ~~such the~~ subpoena, to testify concerning ~~any a~~
 18 violation of ~~the provisions of said laws the laws relating~~
 19 to fires. ~~Such subpoenas~~ The subpoena may be served by the
 20 sheriff or any ~~constable~~ peace officer of the county, or by
 21 any other person who is a citizen of the county, and shall
 22 be served and returned to ~~such the~~ state fire marshal, ~~or a~~
 23 deputy ~~state~~ fire marshal, or a justice of the peace, in the
 24 same manner that subpoenas are served and returned when
 25 issued by justices of the peace. ~~Each the~~ witness shall be

1 sworn to make true answers to all questions touching the
 2 matters under investigation propounded to him ~~touching the~~
 3 ~~matters under investigation,~~ and the his testimony of each
 4 witness shall be reduced to writing and be signed by the
 5 witness him. For the purpose of this act, the state fire
 6 marshal or a deputy state fire marshal ~~shall have authority~~
 7 is authorized to administer an oath to ~~any a~~ person
 8 appearing as a witness ~~as above provided in a proceeding~~
 9 investigating a violation of the laws relating to fires.
 10 False swearing in such a ~~matter or proceeding shall be~~ is
 11 perjury and shall be punished as such. ~~Any disobedience~~
 12 Disobedience to such a subpoena, ~~or any~~ refusal to be sworn
 13 as a witness, or to sign the testimony given by ~~such a~~
 14 witness, or ~~any~~ refusal to answer ~~any a~~ proper question
 15 propounded to him, ~~shall be a witness is~~ a misdemeanor, and
 16 ~~any a~~ person convicted thereof shall be ~~punished by a fine~~
 17 ~~of not fined no~~ more than one hundred dollars, \$100 or by
 18 ~~imprisonment be imprisoned~~ in the county jail for ~~not more~~
 19 ~~than sixty days any term not to exceed 90 days,~~ or by both
 20 ~~such fine and imprisonment.~~

21 (2) Justices of the peace a justice of the peace, when
 22 acting under the provisions of this act, ~~shall have power to~~
 23 may adjourn ~~such~~ proceedings from time to time, and ~~to~~
 24 punish ~~any a~~ witness for contempt ~~for, or on account because~~
 25 of his refusal to be sworn, ~~or~~ to answer questions as a

1 witness, or to sign his testimony, ~~and the~~ The justice of
 2 the peace may compel the attendance of witnesses ~~may be by~~
 3 ~~such justice of the peace compelled~~ by attachment. If the
 4 testimony so taken ~~shall disclose~~ discloses the fact that an
 5 offense has been committed, the county attorney of the
 6 county in which ~~said the~~ offense was committed shall
 7 prosecute the person ~~or persons~~ committing ~~such the~~ offense
 8 in the same manner as in other criminal cases."

9 Section 36. Section 82-1226, R.C.M. 1947, is amended
 10 to read as follows:

11 "82-1226. Records of fire marshal. The state fire
 12 marshal shall keep in his office a record of all fires
 13 occurring in the state, the origin of ~~such the~~ fires, and
 14 all facts, statistics, and circumstances relating thereto,
 15 which have been determined by investigations under the
 16 provisions of this chapter. ~~Except and, except for~~ the
 17 testimony given ~~upon~~ during an investigation, ~~such the~~
 18 record shall be open at all times to public inspection."

19 Section 37. Section 82-1229, R.C.M. 1947, is amended
 20 to read as follows:

21 "82-1229. Annual reports ~~to commissioner of insurance.~~
 22 The state fire marshal shall make an annual report to the
 23 ~~commissioner of insurance,~~ attorney general containing a
 24 detailed statement of his official action and the
 25 transactions of his department, ~~the commissioner of~~

1 ~~insurance and the attorney general~~ shall, in turn, submit
 2 ~~said the~~ report to the governor ~~of the state,~~ with such
 3 recommendations and comments thereon as he ~~may deem~~
 4 considers necessary."

5 Section 38. Section 94-5-615, R.C.M. 1947, is amended
 6 to read as follows:

7 "94-5-615. Definitions. As used in this act the
 8 following definitions apply:

9 (1) "Department" means the department of health and
 10 environmental sciences provided for in Title 82A, chapter 6.

11 (2) "Facility" means a hospital, health care facility,
 12 physician's office, or other place in which an abortion is
 13 performed.

14 (3) (a) "Informed consent" means voluntary consent to
 15 an abortion by the woman upon whom the abortion is to be
 16 performed only after full disclosure to her by the physician
 17 who is to perform the abortion of such of the following
 18 information as is reasonably chargeable to the knowledge of
 19 ~~such the~~ physician in his professional capacity:

20 ~~(a)(i)~~ (i) The ~~the~~ stage of development of the fetus, the
 21 method of abortion to be utilized, and the effects of such
 22 abortion method upon the fetus;

23 ~~(a)(ii)~~ (ii) The ~~the~~ physical and psychological effects of
 24 abortion; and

25 ~~(a)(iii)~~ (iii) Available available alternatives to abortion,

1 including childbirth and adoption.

2 (b) ~~Such-informed~~ Informed consent may be evidenced by
3 a written statement in ~~the a~~ form prescribed by the
4 department and signed by the physician and the woman upon
5 whom the abortion is to be performed in which the physician
6 certifies that he has made the full disclosure provided
7 above and in which the woman upon whom the abortion is to be
8 performed acknowledges that the above disclosures have been
9 made to her and that she voluntarily consents to the
10 abortion.

11 (4) "Abortion" means the performance of, ~~or~~ assistance
12 or participation in the performance of, or submission to, an
13 act or operation intended to terminate a pregnancy without
14 live birth.

15 (5) "Viability" means the ability of a fetus to live
16 outside the mother's womb, albeit with artificial aid."

17 Section 39. Repealer. Sections 41-2101 through
18 41-2108, 69-1924, and 82-1232, R.C.M. 1947, are repealed.

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